
THE

House of Assembly Debates

(OFFICIAL REPORT)

FIRST SESSION 1981 – 86

HOUSE OF ASSEMBLY

Tuesday, 1st December, 1981.

Pursuant to the adjournment, the House of Assembly met at 12.15 p.m. o'clock, on Tuesday, December 1, 1981.

PRESENT

His Honour W. C. B. HINDS, J.P., (Speaker); Rt. Hon. E. W. BARROW, Q.C., B.Sc., LL.D., (Leader of the Opposition); Hon. L. S. CRAIG, (Minister of Parliamentary Affairs and Leader of the House); Hon. H. B. St. JOHN, Q.C., LL.B., (Deputy Prime Minister, Minister of Trade, Tourism and Industry); His Honour C. L. BOLDEN, LL.B., (Deputy Speaker); Hon. H. deB. FORDE, Q.C., M.A., LL.B.; Mr. L. E. SANDIFORD, M.A. (Econ.); Hon. Miss B. A. MILLER, (Minister of Education); Hon. L. B. BRATHWAITE, (Minister of Health); Mr. J. G. ODLE, B.Sc., (Chairman of Committees); Hon. V. L. JOHNSON, M.A., (Minister of Labour and Social Security); Hon. DeL. O. BRADSHAW, (Minister of Housing and Lands); Mr. L. L. SISNETT; Hon. Dr. R. L. CHELTENHAM, M.A., M.Sc. (Econ.), (Minister of Agriculture, Food and Consumer Affairs); Dr. R. C. HAYNES, M.B., Ch.B., F.R.C.P. (Edin.); Mr. R. E. BRATHWAITE; Hon. Dr. D. G. BLACKMAN, (Minister of Transport and Works); Mr. L. A. WEEKES; and Mr. A. TRUSS.

Prayers were taken by Archdeacon F. A. Cayless.

Mr. M. A. KING entered the Honourable Chamber and took his seat.

Mr. P. M. GREAVES entered the Honourable Chamber and took his seat.

Mr. SPEAKER: The Minutes of the.....

Hon. L. S. CRAIG: Mr. Speaker, there seems to be an electrical fault with the sound system. I am told there is some valve which has counted out of the amplifier and I am informed by the Clerk of the Honourable House that it would take about fifteen minutes to install the stand by.

Sir, under such conditions, I move that we suspend for 15 minutes, Sir. I sincerely hope, Sir, that all Sides of the Honourable House will agree to this.

Hon. L. B. BRATHWAITE: I beg to second that.

SUSPENSION

Mr. SPEAKER: If there is no objection, the Sitting is suspended for 15 minutes. (PAUSE) The Sitting is suspended for 15 minutes.
12.25 p.m.

On Resumption:

Mr. H. A. BLACKMAN entered the Honourable Chamber and took his seat.

Hon. L. S. CRAIG: Mr. Speaker, I am again informed by one of the Clerks at the Table that we are still having problems with the sound system, and this time the technicians seem unable to tell us when and if they can have it fixed today, Sir. The only conclusion I personally can come to is that if we can probably get through with the business of the House without the sound system – and I have no doubt that many years before now there was no sound system and we had to conduct the business of the House – I believe that we should be able to conduct the business under the present conditions and of the high standard to which we are used now. I do not know if the member for St. Philip South, who is a trained technician, can be of any assistance.

Sir, I know the concern of the whole House, as well as yours in particular, would be the Hansard Reporters taking the notes. I can only appeal to members on both sides. I know that I am very capable of shouting across the floor, but I will make sure I do not do that to assist the Hansard Reporters so that when one member is speaking they can pick it up quite clearly, Sir. I think this is the only problem. I sincerely hope we can all agree on this and let us start the proceedings.

Mr. SPEAKER: Shall we try?

MINUTES

Mr. SPEAKER: The Minutes of the meeting of Tuesday, the 24th day of November, 1981.

Hon. L. S. CRAIG: I beg to move, Sir, that the Minutes for the 24th day of November, 1981 be taken as read.

Mr. SPEAKER: If there are no observations by hon. members, let those Minutes stand confirmed.

PETITIONS

Mr. SPEAKER: The humble petition of the Barbados Chamber of Commerce.

Hon. H. deB. FORDE: Mr. Speaker, with leave, I ask to give notice of a Petition by the Barbados Chamber of Commerce to amend the Barbados Chamber of Commerce Incorporation Act, 1868-7. I ask, Mr. Speaker, that the usual procedure which applies apply to this Petition.

It is respectfully worded, Mr. Speaker, and it is a Bill to amend and repeal the Barbados Chamber of Commerce Incorporated Act, 1868 to enable the Chamber to expand its objectives and function, and also to remove the restriction of £10,000 on the value of the real estate which the Chamber may acquire.

I am assured by the Clerk that the Petition is in order.
12.55 p.m.

The question that the promoters be allowed to proceed was put and resolved in the affirmative without division.

Hon. H. deB. FORDE: Mr. Speaker, I seek leave of the House to give notice of a Petition by the members of the Agricultural Society to proceed with a Bill to amend the Agricultural Society Act, 1890 - 3 to enable the Society to acquire and hold real estate without any limitations on the value of the real estate which the Society may acquire.

I am assured, Mr. Speaker, that the Petition is in order and stands in the name of Patrick Bethel, President of the Agricultural Society and acting on behalf of the other members of the Society. It is respectfully worded, Mr. Speaker.

I beg leave to proceed and that the Petition be taken us read.

The question that the promoters be allowed to proceed was put and resolved in the affirmative without division.

PAPERS LAID

Hon. H. B. ST. JOHN: Mr. Speaker, I beg to lay the Customs Tariff (Amendment) (No. 11) Order, 1981.

GOVERNMENT BUSINESS

Mr. SPEAKER: Government Business is the instant Order of the Day.

Hon. L. S. CRAIG: Mr. Speaker, I beg to move that Order No. 3 under Government Business be the instant Order of the Day.

THE COPYRIGHT ACT, 1981

Mr. SPEAKER: Order No. 3 stands in the name of the Hon. Leader of the House to move the Second Reading of a Bill to reform and modernise copyright law and the law governing similar or related matters.

Hon. H. B. ST. JOHN: Mr. Speaker, in 1976 in its manifesto, the Barbados Labour Party pledged that on assumption of office, it would as part of its legislative programme immediately set about to modernise the Laws relating to copyright, patents, trademarks and industrial designs. For a considerable period of time there have been a number of complaints in Barbados by interested parties such as musicians, authors and others about the unsatisfactory state of the Law relating to copyright. The Barbados Act was a very, very old Act and it did not give protection to reproductions which were carried out by modern electronic means. Indeed so archaic was our Law that there was grave doubt as to whether matters such as design and photographic reproductions were covered by the Copyright Act.

In 1978 Cabinet received a review from the Attorney General's Office on the existing state of our Law relating to these three matters which in modern Parliaments are known as Intellectual Property Laws, and another ministerial committee was set up by Cabinet to map out a strategy for the amendment of those Laws. After the ministerial committee met, it became clear that

this was an area in which there was a considerable amount of international assistance available from the World Intellectual Property Organisation. This is an agency of the United Nations set up specifically to help countries in our state of development to modernise their laws relating to intellectual property.

As long ago as 1967, the United International Bureau for the Protection of Intellectual Property prepared a series of modern laws and held a number of conferences for the benefit of developing countries on the need and the necessity to protect their artists, their designers their creators and their inventors, and Barbados was one of those countries whose laws were found to be inadequate upon an inspection by this body. It must be remembered, Sir, that in our colonial days this was an area which was reserved for the metropolitan Parliament when such laws as we had, were laws which were handed down to us, the object no doubt being to ensure that the mother country's invisible exports benefited from any creative talent there was in the colonies. The Copyright Act of 1905 was one such Act and although the Imperial Parliament itself, for the protection of its own amended their law many times since 1905. Indeed, there was a comprehensive amendment in 1956, no such amendment took place in the Laws of Barbados.

This Bill, Sir, has as its object, an amendment to the Law to allow us to have a Bill which in relation to copyright will give to copyright holders here in Barbados, that level of protection which is found in developed countries and in developing countries that have adopted the modern laws they have. It will cover in particular photographic reproductions which are not covered now.
1.05 p.m.

In order to ensure that we get the full protection which is internationally recognised, it is necessary for Barbados to join a number of international conventions in relation to copyright. It is the Berne Convention and in relation to the other Bills it is the Paris Convention which has been amended from time to time and the Rome Convention in respect of the photographs and broadcasting organisations.

Cabinet has already taken the decision that Barbados should accede to these conventions but we cannot accede to these conventions, which we hope to do as from 1982, until our Intellectual Property Laws are in the state which the subscribers to the Convention regard as being modern and up-to-date so that the reciprocal protection which we will get from their Law, they will also get from our Law. This is the object of joining the conventions. There are internationally recognised unions which provide a common pre-protection for copyright, provided, of course, that the Laws are the same through-

out this union. The wording does not have actually to be the same because our law is based against the protection of the Common Law System of drafting. It will be recognised, of course, that those countries who have the protection of code going on or any other system of law that they are drafting would be in accordance with their protection but the substance of the rights, I am told, are essentially the same.

The Government was very careful before they brought the law before the legislature to have a large number of seminars here in Barbados so that all interested parties would have the opportunity of hearing the benefits of the law and the provisions of the law from experts.

In November, 1980 Barbados hosted a seminar between the 10th and 12th at Bridgetown to which all of the interested persons were invited. A number of lecturers came and clause by clause the Bills were dealt with at these seminars and I am very pleased to say that we had a very, very large turn out of interested parties. People from the music industry, authors, MEGOB, some from the recording industry, people from the Archives, people from the Registrar's Office, some private lawyers, people from the Press, the professional associations and clause by clause of the provisions of the draft Bill was explained to the parties, so that a maximum amount of consultation took place here in Barbados.

Indeed, Sir, Hon. Members may recall that this was one of the areas of law where it was always envisaged that there would be an attempt at harmonisation among all the members of the Caribbean Economic Community. After the Barbados seminar, other members of the Caribbean Economic Community developed an interest in what we were doing and my understanding is that they too have requested help from WIPO, the World International Property Organisation with the assistance of CIDA, the Canadian Agency For International Development and a number of seminars have taken place in other countries in the Caribbean Economic Community. I believe that Jamaica is following closely upon our pattern.

The legislation therefore which we are passing today will be legislation which will not be dis-similar in any way from the legislation that is passed in the rest of the Caribbean Economic Community but because of the persistent complaints that we have been having, my Ministry in particular has been receiving a lot of pressure from the recording industry in Barbados and from others — we cannot afford to wait until a harmonised law is passed.

The Government is quite willing when this harmonised law comes into being, if there is any need for amendment to the Barbados law to ensure that it is fully in harmony with the contemplated regional law. We are quite willing to amend it but we do not contemplate at

all that there will be any such need because the same source is responsible for the origin of the law.

Dealing more specifically with the Bill, Sir, the administration of the Copyright Laws is different from the administration of the other three Bills. A depository will be created for the copyrighter. There will be no registrar of copyright. There is none now and there is never any in any of the countries but you do have a depository. Members will recall that under an existing amendment to our Copyright Laws that the Public Library is a depository.

Now a separate Bill dealing with the depository will follow this but that is a matter which now falls under the Ministry of Information and I understand that it will therefore be either the Public Library or the Department of the Archives. A course has just been run for officers who work in depositories and I believe that a nominee from the Archives was sent from the Ministry of Information here in Barbados but the substantive rights are contained in the Bill and that Bill, as soon as the Ministry of Information settles whether it is the Public Library or the Archives, the Bill relating to the depository which will cover a similar situation to the amendment to the Law which was passed here, which says the Public Library.

I believe if you write a book now you have to deposit one with the Public Library and one with the University — I think the University of the West Indies automatically gets one deposited there too but that bit of administration will follow this.

We have a number of explanatory sheets and as we go through section by section of this Bill, if any honourable members wish to question any of its provisions, section by section, Sir, I would be in a position to deal with them, Sir.
1.15 p.m.

I think that this Bill is one that will receive the support of all Hon. Members, as an attempt, by the Government, to ensure that our creative people receive the maximum protection which has been devised by nations for their people.

I beg to move, Sir, that this Bill be now read a Second Time.

Hon. H. deB. FORDE: Mr. Speaker, Sir, I rise to second this Bill and to make a substantive speech on it.

Mr. Speaker, the period 1976 to 1981 has been perhaps, one of the most exciting periods in the history of Law reform in Barbados and I believe that the Barbados Labour Party Government will have to its credit

that it faced up, very squarely, to reforming several aspects of the Laws of Barbados, both those having the social impact and those having an economic and commercial impact, as well. And, one of these areas is the area of intellectual property and what is also referred to as industrial property.

Several people, including lawyers are usually afraid to deal with the subject of the Bills before this Honourable House today. They are considered often as esoteric. They are considered as difficult to understand. Some of them impinge on the scientific and of course, there is a hesitancy of people to sometimes read what is considered very dull Law. But, when one has become familiar with the subjects of copyrights, patents, industrial designs and trade marks and when one recognises fully their objects, one can be well satisfied that it is an intellectually challenging area of human activity. In addition, the subjects themselves are beneficial to those persons who need the protection of the legislation.

In this case, the primary beneficiaries of this legislation will be the people who deal in ideas — authors, broadcasters, dramatists, writers in general and in fact, very few people associate the concept of property with the concept of ideas. Whereas, a person who has a piece of land or is selling a particular piece or personal property gets his protection for that, too often, people do not recognise that the only asset of an author is in the copyright to the work which he has produced and it is necessary for us to give him that protection.

The protection of copyright in the Laws of most countries has been recognised for centuries now. We have not prospered that well in Barbados and indeed, our 1905 Bill, as the Hon. Minister said, is not only archaic and outdated, but it did not give our own native artistes and artists, the protection which they deserve. With more and more Barbadians becoming authors in their own right, producing musical scripts, producing dramatic scripts and works of art, it is essential that they be given the fullest protection available, not only within the Laws of Barbados, but outside of the territorial limits of Barbados.

Now, to do this, we need two things. We need updated legislation, such as this that we are now bringing before this Honourable Chamber and we also need reciprocal protection in foreign jurisdictions. If I may illustrate this simply, Mr. Speaker, a calypsonian like the "Mighty Gabby", who produces work of the highest quality, must retain the ownership in his script and in his work, if he is to gain a livelihood from it and as the Law now stands, both in relation to its national, regional and international aspect, he has very little protection within Barbados. He has some protection here, not complete, and less outside of Barbados for his work.

An artist, who produces, let us say, a painting of exceptional merit and beauty is likewise ill-protected in the international sphere, particularly, so far as, Barbados is concerned. And we recognised, quite early, that it was necessary for us to set up the mechanisms for reforming the Law and placing Barbados in the position where it will become party to the Main Conventions governing intellectual and industrial property. We must have it, Sir.

Frequently, we have had complaints from our musicians about the purloining of their works overseas, regardless of whether it be in Jamaica, where musical studios reproduce their work without paying them any royalties or fees, or in Miami, in which a brisk trade is being done in Caribbean works, to the detriment of our musicians without any protection for them. We have had to say to them that until we can join the international conventions and be able ourselves to give reciprocal protection to foreign artists within our own jurisdiction, their position will remain untenable.

I reckon, Mr. Speaker, that the recording industry in Barbados has lost hundreds of thousands of dollars because of the failure of our Laws to reflect adequate protection for them. And, it is a fact, that records of songs made here in Barbados are now being purloined in Miami and being sold at cut-throat — or cut-down rates — on world markets to the detriment of our artistes and our workers here in Barbados. In fact, I go further, Mr. Speaker, although we are not yet dealing with the question of trademarks I say, that in areas like Germany and in Europe, rum and various other products are being marketed under the label of Barbados, without the protection for the Barbados producers here within our own market. And, that is one of the reasons why we have given maximum emphasis on this set of Bills and in particular, this one dealing with copyrights.

Mr. Speaker, I had the privilege of working very closely with my colleague, the Deputy Prime Minister and a series of officials on this package. At first, it was not easy to convince some of the officials of Government of the urgency of this matter and there were only a few very interested, dedicated and far-sighted people who grappled with the problem from early. I would be failing in my duty, if I did not single out for praise, the Deputy Parliamentary Counsel, Mr. Lewis Hunte, who has done an exceptional job, in the drafting of this legislation and in helping to evolve the concept which we now have before this Honourable House. He has done a first class job of draftsmanship and the legislation reflects conciseness and clarity, the like of which is recommended by the Renton Committee and by the Dreiger team as the form for model legislation for countries that want to be in the 21st century. And, I could not praise him too highly for the co-operation

which he gave and for the hard work which he has put into this exercise.

He has been ably supported by Mr. Rhynd of the Barbados National Standards Institute, who was the public official chairing the Committee. But, by and large, a lot of the work or most of the work fell on the shoulders of Mr. Hunte. And, he has had to be abroad frequently working with WIPO on the various bits of legislation and what is more, Sir, we have been able to lend his expertise on similar exercises in relation to the balance of the Caribbean, including Grenada. I do not know if Hon. Members know. (ASIDE: Mr. L. E. SANDIFORD: Before or after?) Both before and after. I do not know whether Hon. Members know, Mr. Speaker, that in its recent, annual Report, singled out Barbados for special praise about the manner in which the Government of Barbados has gone about planning the reform of its Intellectual and Industrial Property legislation and for the use of its limited resources in such an outstanding manner.

1.25 p.m.

I believe that these Bills which we have here before us will become the model Bills not only for other Caribbean states but for other states outside of the Caribbean region, particularly in Latin America and in Africa as well.

Mr. Speaker, I am aware of a draft Bill done by Mr. Dennis DeFreitas under the CARICOM exercise. Unfortunately, we were unable to accept this Bill because to some extent it was modelled lock, stock and barrel on the English 1956 Act which gave as no protection. That was done from the perspective of a developed country rather than from the perspective of a developing country, and our interests are not necessarily identical. It was necessary for us therefore, to look at the legislation from the interests of a developing country which has had to fight for a better international economic order. That is one of the reasons why we did not take the CARICOM draft as sent to us.

The second reason was that the language and the style of drafting was a bit archaic and we hope with this Bill to set a different style of drafting. I am fully aware of the fact that the Barbados draft Bill is to be used in the other CARICOM jurisdictions to harmonise the laws dealing with this matter.

Mr. Speaker, I want to single out perhaps in a long Bill of this nature one aspect that I think is worthy of some comment, and that is the sections dealing with phonograms. We cannot at present give protection to the gramophone industry and the recording industry in general in Barbados until we have dealt conclusively in our own legislation with the protection of phonograms

and have joined the relevant Convention dealing with the international protection of phonograms. WIRL and the other studios here have been losing money and in turn this has been causing a loss to the artistes and other workers in Barbados because of the lack of protection for phonograms and dramatic works as at present exist in our laws.

I want to thank the WIRL people for having contributed financially to a team attending an international seminar on this subject, and once again the contribution of Barbados in the person of Mr. Hunte to that seminar has been commented favourably on. So we have had a long exercise of some three years in planning in a concrete way for this day in which we would have reformed our laws, and will move on to the second stage which is setting up the administrative apparatus necessary to police the laws and see that it is fully implemented.

I want to appeal to the Government that although I know there is a hesitancy in the Ministry of Finance for establishments to add to the personnel of the Barbados Public Service, I believe that this is one area where a properly run office of intellectual and industrial property can pay for itself and make money. Indeed, in developing countries such as Algeria, which has been in the forefront of updating its industrial property legislation, the evidence clearly shows that such offices are paying for themselves; and the same applies in Cuba which is trying of course to become the national centre for the Caribbean.

It is Trinidad, Barbados, Jamaica and Cuba who each is claiming to be the national centre for the Caribbean in this respect, and I think Barbados is well placed to take the lead for lots of reasons in this regard. But such an office is able to pay for itself, and it will be very short-sighted if we do not give the office the necessary personnel of as high a calibre as possible to be able to monitor the legislation and undertake the protection which is necessary.

The artists will have to pay some sort of fee, the owners of copyright, the owners of patents, the owners of trade marks will have to pay perhaps a higher fee than they pay at present for the protection of the registration of their works, both nationally and internationally, but it is money well spent. Indeed, the charges at the moment are too low, and in some instances are lacking. We can collect additional fees to give a better service and better protection in this regard, but I am not aware that they would ever hesitate to pay a reasonable fee if they were getting the service that goes along and the protection that necessarily flows from this. So it is certainly a pleasure, Mr. Speaker, for me to second this Bill as one of a package of model legislation with strong economic aspects and economic consequences for the people who will be affected by the legislation and who will benefit from it. It also has strong cultural consequences for those of us

who want to preserve our heritage and to ensure that it is a primary preserve for the people, the artists, the writers and the public of Barbados as a whole.

Mr. L. E. SANDIFORD: Mr. Speaker, as the Deputy Prime Minister indicated in introducing this Bill, there is really no difference between the Government and the Opposition on this particular measure. We are going to support this measure. As has been pointed out, it is based on model legislation and it is part of the development of this country, or may be viewed as part of the development of this country.

I think the Deputy Prime Minister made a very valuable point when he indicated that the metropolitan country, the mother country, Britain, continued to maintain or rather to pass on or ensure that its legislation in this area, particularly the 1956 copyright legislation, would apply in the colonies. But I do not think that particular provision applied to what they called the self-governing dominions. It did not apply to the dominions because they from very early — perhaps because they were kith and kin, I do not know, I do not know what is the reason — but they were entitled or enabled to go and pass their own legislation in this area but in the other territories such as Barbados the United Kingdom law tended to apply or was based on that. That is my understanding of the background.

1.35 p.m.

I start from that particular base because we on this Side view this legislation as one further means of securing the independence of this country by bringing to the artists and those who deal in intellectual and cultural matters that type of protection and the type of incentive to be creative and to see the fruits of their creation.

Now I would like to take up the point made by the Deputy Leader when he indicated that this particular piece of legislation, the draft Bill, was circulated to interested bodies and there was quite a bit of consultation and discussion with persons and interests concerned. That is part of the modern process for the drafting of legislation and I have no quarrel with that. But I would like to draw attention to the fact that it appears to me that the last persons who see legislation are the parliamentarians themselves, and while not being critical of the Government for discussing draft Bills with interested bodies, I would like strongly to suggest that at the same time that draft Bills are being circulated to interested bodies for their comments, that parliamentarians should also be circulated with the draft legislation so that they can see it from very early and perhaps start formulating their views and so they would be able to give due attention to these matters.

I think this is an important point. It is an important point because it means that as legislators we are being

pushed further and further back, and there are persons who may have no standing at all as far as this parliament is concerned who are privy to legislation or rather of draft legislation while the legislators themselves may be the last persons to see the legislation. I think this is a matter which all serious parliamentarians should be concerned about, and I do hope that the Government will pay some attention to this. After all they speak in terms of open Government and they can let the sun shine in the area I have been talking about.

I can well agree with my colleague and friend the Hon. Member for Christ Church West who has pointed out that the period 1976-81 was a reforming period. Of course we have no doubts about that at all, and I would compliment him for the work that he did in that particular regard. By the same token of course, he forgot to say that the period prior to 1976 was also a reforming period, and subject to that particular amendment I would compliment him on this because one thing is certain — this party which now forms Her Majesty's Loyal Opposition has been reforming the laws of Barbados ever since it came into power in 1961, and particularly after 1966 with that great reform, that is, the Law and Constitution of Barbados. I am certain the former Attorney General will agree with that and he will take that point.

What we are concerned about, as indeed the Government is concerned about, is that the rights of the authors of literary, dramatic and artistic work, in other words, the whole area covering intellectual activities, be given full protection in their productions and in their creative works, and the purpose of this legislation, we take it, is to ensure that such protection is given. Now of course, from the time of the invention of movable type followed by other means of reproductions including radio, television, film engravings, lithographs and so on we have had the capacity to reproduce the work of such authors, and this has created a problem in a sense.

While it has led to the spread and to the diffusion of ideas, it has also created a problem that the authors themselves might not be in a position to benefit fully from their own productions and creative efforts. So what concerns us here in Barbados in particular is to ensure that those who produce works of art, for instance, if I may identify one merely by way of example, West Indies Records Limited, or the musicians who may produce religious or popular or other types of works, are not deprived of the full benefit of their work.

I believe there may be instances in which a musician, for example, may produce, let us say, a particular work, musical score and one copy may be bought and may be reproduced, and the benefit that the musician or the composer would have attained would be on that one copy sold, but he would derive no benefit from the reproductions of that copy and it is right that the com-

poser and other artistic creators should benefit just as the person who develops an invention would benefit from that particular invention.

It is against that kind of background that we give support to this Bill in the hope that it would give protection all around, both to the artist or artistes as well as to a public which is becoming more and more interested in cultural and intellectual activities and ideas.

I believe, Mr. Speaker, that another area of concern is the area of the blank cassette tapes. It is quite possible, not only possible but it actually happens that there may be a recording, — the Hon. Member for Christ Church referred to the Mighty Gabby — but I may deliver a brilliant speech in Independence Square and somebody may come with a blank tape and record it and the members of the Government might be so interested in it that they would get a copy and use it for their own intellectual edification and cultural and social upliftment. Now, I do not know, Mr. Speaker, I will have to consult with my attorneys-at-law to find out what my rights would be in that exercise because I believe there should be some copyright also in that particular area.

1.45 p.m.

The question of piracy may be an important one. It may come for this country in another way. I do not know if there are any instances in which books may be imported into this area and when the protection is exhausted, there may be skillful printers who would reproduce those books and there may be some concern on the part of those who held the copyright about such activities.

I think we have got to look very carefully at the place of the developing countries when we are copying these model legislations because we have got to ensure that the rights and indeed the needs of developing countries are not overlooked in this type of legislation.

It is quite possible that when we go in for all of these reciprocal rights and so on that the developing countries may find themselves at the wrong end and there may be subscribing to legislation which might not be in their best interest. I throw out this because it is an area perhaps to which sufficient attention may not be given.

The Deputy Prime Minister indicated that Barbados would have to subscribe to a number of conventions, including the Berne Convention and the Rome Convention. I do not remember which was the third one — the Paris? I would be glad if he could tell this Honourable House if it is really necessary to subscribe to all of these conventions.

I believe that there are countries which do not subscribe to all of them but which also give adequate protection to their authors. I have a feeling that that is so, that in fact I do not think that the majority of countries subscribed to all of these conventions and I am speaking, subject to correction, it is possible — the Attorney General has come in now, he may be able to speak on this particular matter. I will ask the Attorney General for this information.

Hon. L. R. TULL entered the Honourable Chamber and took his seat.

I hope you heard. The former, Attorney General your predecessor indicated that there are certain lawyers who are afraid to deal with these subjects because they consider them esoteric. I am certain you do not fall into that category and that you will get up and make the necessary corrections such as at the last Sitting of the House when you had to correct the Prime Minister on that particular matter. I am certain about that.

I would be glad too if the Deputy Prime Minister could tell us what would be the cost of subscribing to these three conventions? If any cost is involved, what it would be to accede to these Conventions. Is it merely signing something and depositing it or is it something you have to pay an annual subscription as if you were joining one of the international organisations or so on.

I do not know whether we are members of that body in Switzerland, WIPO we subscribed under the Democratic Labour Party, didn't we? Anyhow, the Copyright Law under which we are presently operating indicates that any protection, any book and book is given a fairly wide definition, must be deposited with the Public Library, one copy with the Public Library, another with the University of the West Indies at Cave Hill and I believe there is also a requirement for a deposit with the University of the West Indies at Mona.

I think this is important. It may be an area in which, I do not know whether this is following up in any way to ensure, in fact, that the law is complied with. Maybe this is so but I am concerned like the member for Christ Church West that we may put a lot of legislation on the Statute Book but we do not create the necessary administrative machinery to ensure that the legislation is properly administered and that the provisions in the legislation are followed up.

This is a pretty thick Bill that we have before us and I notice, well I heard the Deputy Prime Minister say that there is no need for any additional staff. I hope I am quoting him correctly on this... "there is a depository now and we will not need any depository" but I am concerned about this because I would find it very difficult to think that a piece of legislation which contains some 57

pages must impose some additional workload on which ever Ministry would have responsibility for it.

It is one thing to say that it is only a right but I believe whenever we create legislation it must have some implications for which ever Ministry that has responsibility for the subject and I believe that this particular piece of legislation falls into that particular category. I hope that in the reply the Government's spokesmen will give us some idea as to whether in fact, either now or later, it is envisaged that they would be staff provided in order to deal with this or with the other related pieces of legislation because together they constitute a pretty wide range and may very well call for the establishment of a department or a section within the Ministry to deal with them.

1.55 p.m.

We are dealing with ideas, Mr. Speaker, and I believe that there is a book recently produced called "Folk Songs of Barbados" authored by three outstanding Barbadians. I have a feeling that that particular production has not got the kind of support from the Government that it should receive. I believe that when Barbadians put their creative talents to work

Mr. SPEAKER: I do not think that the Hon. Member is speaking to the Bill that is before the Honourable House.

Mr. L. E. SANDIFORD: You mean, in the point that I am on now.

Mr. SPEAKER: I think so.

Mr. L. E. SANDIFORD: Alright, I will no doubt get another opportunity when I could deal with that particular matter. I accept your ruling, Mr. Speaker, on that particular matter. (ASIDE)

I would like to turn to the Caribbean Broadcasting Corporation now.

Mr. SPEAKER: Before the Honourable Member turns his ear, is the Honourable Member likely to conclude his address by 2.10 p.m.? Is the Honourable Member likely to conclude by then?

Mr. L. E. SANDIFORD: I do not think so, Mr. Speaker.

SUSPENSION

Mr. SPEAKER: This Sitting now stands suspended until 2.45 p.m. today.
2.00 p.m.

On resumption:

Mr. W. O. FRANKLIN entered the Honourable Chamber and took his seat.

Mr. SPEAKER: This Sitting is now resumed.

QUESTION TIME

Mr. SPEAKER: It is now Question Time. I am advised that there are no Replies to Questions ready.

PRIVATE MEMBERS' BUSINESS

Mr. SPEAKER: So, we automatically go into Private Members' Business.

Order Number One, the Honourable Member for Christ Church West Central was addressing the Chair when we came to the end of Private Members' Business time. The Honourable Member may continue his address, if he so desires.

Mr. M. A. KING: Mr. Speaker, on the last occasion, just before the conclusion of the last Sitting when Private Members' Business was being dealt with, I had just begun to turn attention to the question of the Works Programme of the Government. I am dealing specifically with the area of road works programme.

Now, it was important, I think for the Government, at a very early stage to look very seriously at the problems of drainage in the country because with the massive amount of building that has gone on in the country over the past few years, it is evident that the question of drainage has now become a serious problem in the community. The Government has, at this time, to treat this matter as a priority and to come to grips with the problem of drainage fully. And, it is no point in saying that in some areas, whenever there is a deluge of rain, that it is to be expected that flooding would take place.

Now — and this is of particular reference to a number of areas because it must be obvious that especially in the Government housing areas, the areas owned by the National Housing Corporation, that in those areas, where Government or Government agencies are largely responsible for the provision of housing facilities for people, it must be important that those facilities are the best provided for the people in that area. And, you are not doing people a favour. People have a right not to be flooded out when they live in housing whether it is provided by Government or private enterprise. It is important for Government, especially in the area which is directly under their domain or which are under the domain of statutory corporations which are wholly owned by Government or largely owned by Government,

that the necessary attention and serious attention be given wherever possible, to eliminating completely the problems of flooding in those areas.

Let me illustrate the point which I am making about dealing with problems of drainage in Government Housing areas, in the Silver Hill area in Christ Church West Central, which I have the honour to represent, Mr. Speaker, whenever heavy rains fall, waters from higher ground tends to flow through the bottom floors, the ground floors of the houses in Silver Hill. Those houses happen to be in an intermediate area between high ground and low ground and the water, on its way down, flows right through the bottom floor of the houses in that area causing distress to the residents and discomfort and inconvenience. (ASIDE)

There had been retaining walls at the back of those housing areas when they were built. Those retaining walls, in recent times, have probably as a result of the effects of the elements disintegrated with the result that the protection which was once there is no longer there and therefore, serious attention has to be given to the problem of preventing these flood conditions which exist in situations of that sort where the necessary corrective measures which have been taken are no longer there.
2.55 p.m.

Similarly, in relation to the houses on the other side of the road, there were ridges at the edge of the road which over the passage of time have crumbled or have been knocked away by traffic, with the result that those ridges which once controlled the flow and the passage of water along the roadway so as to prevent it from going right down into the front doors of people's houses are gone. The result is that the flood waters fall right over the edge of the road now and find their way through people's houses on the way to low ground. So that, in that sort of situation, in that sort of area the problem is not so serious — all it needs is some attention where the necessary reconstruction would eliminate essentially the problem in areas like Silver Hill.

Another problem which is evident and which illustrates the point which I am making, Mr. Speaker, would relate to areas like Sargeants Village and Barkers Tenantry Road in Christ Church West Central. For instance, some necessary road works have been done in that area. Roads have been put where roads were not before or where there were just tracks and very bad road conditions, the road surface was raised. The level of the road was raised with the result that water now flows directly on to the premises of people who live at the side of the road and flood the people's homes. So that while people in situations like that are grateful to have roads constructed for them, they are faced with a secondary problem and an equally important problem of being flooded when the roads are there.

All of this could be pre-empted by the necessary, appropriate and proper planning when road works of this kind are being contemplated. When you have to wait first to experience a flood and the inconvenience which people have, and then run helter skelter and start digging wells thereafter,..... I am saying that in this situation, with the necessary engineering attention given to the programme, this sort of problem can obviously be precluded.

I would like to turn for a moment to the Government's proposals, so far as the setting up of this proposed Authority to administer the road repair and transport system are concerned. The Rt. Hon. Member for St. Thomas, the Prime Minister, has said in this Hon. House that he proposes to set up this new Board for the purpose of looking after the repair of roads and for improving the transport service. I think it is time now, Mr. Speaker, that we should have some definitive statement from the Minister responsible for Transport and Works as to what is the proposed structure of this Board. I believe that a lot of talk has gone on about setting up the Board. In the Prime Minister's statement he said that it was decided to set up this Board, on which among other organisations the Barbados Workers' Union will be represented, and it is proposed to supply this Board with funds for the purpose of improving public transport and the condition of highways.

What I would like the Hon. Minister who is responsible for Transport and Works to tell this Hon. House is whether it is proposed that this Board should replace the existing Transport Board? Whether it is contemplated that this Board would take over responsibility entirely for the repair of highways? What is the position so far as the construction of highways is concerned? And what will be the role of the present Ministry of Transport and Works so far as road building and road repair is concerned? I am sure by now the Government would have thought about what it proposes in this regard seriously and can come out at this time with a definitive statement as to what precisely is the role and the position which this new Authority will take *vis-a-vis* the existing authorities in the country which presently deal with the problem of highways and with the problem of transport.

I do not know if perhaps there may be some idea that this Board might be created just to administer the funds and leave the sort of the carrying out of the actual work with the existing authorities like the Transport Board and the Ministry of Transport and Works. It would seem to me that if a proposal of this sort was contemplated, that perhaps it may be a necessary administrative programme to interject a new institution just for the purpose of administering funds. So I am sure the Minister of Transport and Works can perhaps give this Hon. House a definitive assurance as to the proposals of Government, bearing in mind what has been articulated in the Throne

Speech, a definitive statement as to what precisely this new Authority will be responsible for so far as the administration of the programme of transport and highway repairs is concerned.

It is obvious, Mr. Speaker, that the condition of the roads in Barbados leaves much to be desired. We want to be sure that Government is going to implement what it says in the statement of His Excellency the Governor General outlining Government's policy in the Speech from the Throne, but despite that, we see that the roads continue to be filled with pot holes. Motorists have their problems, pedestrians have their problems on the roads, all sorts of injury and damage come to people who use the roads and have to be faced with the problem of dropping into pot holes here and there. Sometimes people are injured riding on motor cycles. I know of one particular person who lives nowhere near Christ Church, who was riding on the back of a motor cycle, the motor cyclist dropped into a pot hole this is somewhere in the Eagle Hall district — the lady who was on the back of the cycle was in a state of pregnancy and as a result she had a miscarriage because of the state of the roads. (Hon. L. R. TULL: Or the negligence of the rider). The negligence of the rider, perhaps the negligence of the Government in not ensuring that the roads were in a proper condition and maintained in a proper condition. I had no doubt in my mind that perhaps she could sue the Government for the negligence in not repairing the roads.

3.05 p.m.

The amazing thing about this particular incident was that the man who rode the cycle and the lady herself who had a close relationship were so concerned about the problem of suing the Government that they preferred, and this was within the last five years, to bear their loss rather than take action suing the Government. They wondered what would come down on their heads. I assured them that no responsible Government would do anything to them and that they had nothing to fear from any suggestion that Government might in any way victimise them. This man was working in the Government Service, I assured him that he had nothing to fear, but he did not take my assurances and he did not proceed with the matter.

Mr. SPEAKER: They preferred to be their own advisers.

Mr. M. A. KING: They preferred to be their own advisers, that is quite correct, Mr. Speaker. I think everybody in the country is concerned about the condition of the roads. We know that the Government is spending a lot of money in a lot of areas. We know that there is a tight economic situation, but the roads are important to Barbados. The roads need serious attention and

I am asking that the Minister come out with a programme for keeping the roads of Barbados in a proper condition.

There is a new and expensive highway I believe called the Spine Road which is now being constructed, and whilst we in this country like to know that the infra-structure for our expanded road system and a good road system is available, we also like to know that the existing roads are kept in proper repair, especially tenantry roads, where the people of the country live and where they need to get access to their homes, and some serious attention and priority attention should be paid to those areas. Perhaps some of the vast expenditure on new developments like the Spine Road could wait until the time when the economic situation of the country could warrant that sort of expenditure.

There was one road, Mr. Speaker, which I forgot to mention in my analysis about the condition of the roads and this is a matter which should concern the Government itself seriously, and that is the road which leads to the Dover Convention Centre. Whenever rain falls, that road is in a horrible condition. This is a road in the St. Lawrence area. Again unfortunately it happens to be in the constituency of Christ Church West Central, but it is an area which I am told the Government is concerned about. A variety of international conventions take place at the Dover Convention Centre, and I am sure the Government would like to present and preserve the image of Barbados as being a country with its infra-structural road works in good order, and we would not like to present the spectacle to our visitors that our roads are in such horrible condition that if they dare to walk along the road in St. Lawrence leading to the Dover Convention Centre that they risk.....

Mr. SPEAKER: The Hon Member has two minutes in which to wind up his debate.

Mr. M. A. KING: Thank you, Mr. Speaker. So that I conclude with this thought on the Government's transport and works programme. We have said on This Side that a task force should be created with a view to analysing all these issues and coming up with prescriptions for solutions. Hon. Members on the other side have taken the view that no task force is necessary. I am not concerned too much at this time with the terminology, but call it what you like, it is important, and I deal specifically with the area of transport and works. In this area those who are responsible for the administration of this department should sit down, work out a programme bearing in mind the problems which exist in the community, the problems which exist in the country, the problems which need attention for the benefit of the masses.

Mr. SPEAKER: The Hon. Member must now end his speech.

Hon. Dr. D. G. BLACKMAN: Mr. Speaker, I had no plans to participate in this debate but since specific and critical reflections were made about a Ministry for which I have responsibility, it is necessary for me to respond, and in doing so to clear up some misunderstandings and conceptual confusions that the speech of the Hon. Member who just sat down revealed. In the earlier part of his speech he made reference to the Throne Speech, and earlier today he made reference to a speech made in this Chamber by the Prime Minister. His comments make it clear that he does not understand the difference between the role of the proposed Transportation Authority and the Board that the Prime Minister referred to which would be set up for the purpose of administering the funds collected under the Transportation Levy. He used the words "Authority" and "Board" in an equivocal sense, creating the impression that they were one and the same agency.

Soon this Chamber will have the benefit of discussing proposals for the establishment of a Transportation Authority, and I might give him a brief and succinct review of the kind of agency that is envisaged. The Transportation Authority as it is conceived in this early and embryonic stage within my Ministry — it has not yet been submitted to the Cabinet for ratification — is an agency that will deal with the totality of transportation in Barbados.

For too long we have looked at transportation in this country as something that is there. We have not considered the input from the transportation sector to the development of this country. An efficient transportation system is absolutely necessary in order to ensure that the cost that are borne by ordinary consumers are kept to a minimum, and therefore it will be the responsibility of this umbrella authority to deal not only with transportation of publicly owned vehicles such as vehicles operated by the Transport Board, or public service vehicles such as mini-buses, taxis and hired cars, but the whole question of transport in the form of freight will come within the purview of this Board in order to ensure that what we now conceive to be inflated costs resulting from an inefficient transportation system — and when I talk about transportation system I am using the genus term as distinct from the species term, I mean transportation in its totality embracing buses, mini-buses, taxis and trucks that are used for private freighting. We believe that this whole sector has to be considered, new policies developed for it with a view to ensuring that the high costs that consumers now have to bear because of an inefficient transportation system are reduced wherever possible. That will be the function of the Transport Authority.

3.15 p.m.

The Board that was averted to in the speech by the Prime Minister is a different agency and this Board will be

set up for the purpose of administering the funds collected by the Transportation Levy and these funds will be used for two purposes. One, for the acquisition of buses and the underwriting of other capital works of the Transport Board and secondly for the expansion of our Road Programme.

The Board itself will simply administer the funds and will in no way usurp the functions of the Transport Board for the Ministry of Works. The Board is not an agency that is an oversight agency which will take on to itself the powers now currently exercised by the Ministry of Works or the Transport Board. It will be there to advise the Minister on matters relating to simple disbursements rather than advising the Minister on policy questions.

It is also necessary to refer to certain aspects of the speech made by the Hon. Member for Christ Church West Central. While asking for a task force presumably made up by members of the Opposition the Hon. Member has failed significantly to demonstrate that the members of the Opposition are worthy of inclusion on any such task force.

I was prepared to listen to the arguments with an opened mind and that is why one would have expected its critique which is the normal and tedious criticism applied to the Transport Board, not only to be interspersed by proposals of some originality but we would expect the member to break new ground and having so impressed the House with his originality of thought, I personally would give serious credence to the demand for inclusion in a role of policy making. But in so far as the comments emanating from the shadow spokesman — and shadow in fact, he turned out to be since his comments were totally devoid of substance — the comments emanating from the shadow spokesman, Mr. Speaker, failed to break any new ground whatsoever and I find it extremely difficult to support the demand for inclusion of members from the Other Side in a task force which will deal with matters relating to transportation.

But, Mr. Speaker, the Hon. Member has called for a definitive statement. He will get a statement, though not a definitive statement, since we are still in the process of studying some extremely complexed problems and one can only make definitive statements when one has come to the end of a study but I can communicate some of our preliminary conclusions.

Mr. Speaker, it is plain that our transport system needs much improvement. It is a fact that one of the problems in the failure of Government to deliver a transport system of the highest quality is a fleet of inadequate size. It is also a fact that the fleet of the Transport Board is not of adequate size today because of the monumental, if not criminal errors perpetrated by the Democratic

Labour Party in its transport policy during the period 1971 — 1976 when that Government took it upon itself to purchase vehicles which no man who had any concern whatsoever for frugality and wise spending of the hard earned taxpayers money could ever have undertaken.

When one looks at the Seddon buses which cannot climb the most simple gradient, the most general gradient, after a down pour of rain, when one looks at the way in which the vehicles destroy tyres, consume fuel, when one looks at the monstrous lemons over 100 of which are still around the necks of the Transport Board like a vertebral albatross one thinks that it is nothing but effrontery for spokesmen from the Other Side to come into this August Chamber and talk about a Transport Board not delivering a proper service.

I submit the genesis of the crisis, Mr. Speaker, can be found in these monumental errors perpetrated by people from the Opposite Side during the five year period 1971 — 1976. We are now in the process of trying carefully to build the fleet of the Transport Board back to an adequate size, Mr. Speaker.

I recall on the last occasion that the shadow minister for Christ Church West Central spoke, he wondered whether it was necessary for a Minister to go looking for buses. There are some people, Mr. Speaker, who have a peculiar conception of ministerial functions and ministerial responsibilities. There are some people who believe that Ministers should sit in their offices like ciphers and wait for recommendations served up to them from below.

The concept of ministerial responsibility in a developing country imposes the duty upon a Minister to take initiatives and where the bureaucrats within his Ministry are unable or unwilling to take steps and the Minister thinks that an objective may be achieved more expeditiously by moving in a particular direction, then he has the responsibility to do the work that would normally be assigned to other people.
3.25 p.m.

I believe in a developing country such as Barbados if it means moving forward the policy of the Government expeditiously for a minister to sweep the floor of his office, then, that minister will sweep the floor of his office. There is no job within a ministry that a minister within reason should shrink from undertaking, if it will carry forward the policy of the Government.

There were other uninformed statements coming from that quarter, not by the Hon. Member for Christ Church West Central, where people wondered why you should go to the United States of America to purchase buses. Mr. Speaker, my researches revealed that we have over 160 Leyland vehicles and that the engine of the Leyland bus is designed by a company called Cummings

Manufacturing Company in the USA. The axle and the transmission are designed by Rockwell Manufacturing Company, also an American company and indeed, all of the parts of the Leyland vehicles are designed by American companies. The Leyland chassis is, therefore, for all practical purposes, an assembled American vehicle in Britain. It would, therefore, be a matter of common sense, if one wanted to reduce costs to go to the source with a view to finding out whether we could get any chassis from that area at better prices. We do not want to fall into the habit, Mr. Speaker, of purchasing vehicles to help out persons who may be among the Party faithful. I believe that is why we are saddled with Seddon vehicles today.

And, therefore, a careful study is being made of all of the available bus types, both in the United States of America and in Germany and when all of the information is in, we will make the choice. I could have put 100 new buses in Barbados already, but it would be a serious dereliction of responsibility to buy buses at random. We have to check as meticulously as possible to ensure that any faults within these vehicles are anticipated and when we have studied all of the available information and we have decided upon types, because there are two more types ordered, for reasons which I shall give shortly, then, Mr. Speaker, we will invite the manufacturers to come to Barbados to look at our roads and to look at the topography of the country with a view to providing us with the most mechanically sound vehicles possible.

We are purchasing two more types, Mr. Speaker, because in the past, under the Democratic Labour Party Regime, the practice had been to buy buses randomly and so, you had a multiplicity of parts. You had Bedfords, Vikings, Albians, Mercedes, about 10 different types and it is well-known that you cannot operate a transport system efficiently without standardisation. Now, the ideal level of standardisation would be standardisation of one type which would mean that given the preponderance of Leyland buses, we would standardise only at a Leyland type. But, it would be very irresponsible of me, Mr. Speaker, to standardise at one type, given the shakiness of the Leyland organisation. Every day, there are rumours or rumours about rumours of Leyland shutting down and to build a bus fleet of some 400 buses, exclusively of the Leyland variety, would put us in danger of having no transport at all, should the Leyland operations in England collapse altogether. We standardised the Leyland as one type.

I came into the Ministry and found an order for Mercedes Benz. The new kind of Mercedes Benz that have been ordered, Mr. Speaker, is one that is as yet untried in tropical conditions, but, there is evidence to believe that it will be a useful and hardy vehicle and the Board has tentatively agreed to standardise with Mercedes as the second type. (ASIDE) We are also planning to standardise

with a third type and for the reasons that I gave earlier, this type, in all probability, will be a North American type.

There were factious noises coming from the Other Side that they produce left-hand drive vehicles in the USA for their own domestic purposes. The DLP bought Mercedes Benz buses, which were manufactured in Germany and in Germany, they drive on the right hand side of the road and they produce left hand drive vehicles.

When you are talking about General Motors and Mercedes Benz, you are talking about gigantic, multinational operations with very sophisticated technology and all that the production of a right hand drive vehicle means is a setting up of the assembly lines slightly differently. It is no major technological decision to do that, since most American and German companies have long been producing vehicles for right hand drive markets.

We also hope to introduce some intermediate type buses within our bus fleet and these intermediate type buses we hope, will cut down drastically on the consumption of fuel. One of the problems of our transportation system, Mr. Speaker, is that we have attempted to provide a taxi service, by using our buses. Members of the Transport Board staff are harassed by politicians demanding that buses go into every cul-de-sac and into every gully and fearful operatives within the Transport Board comply with these demands because they do not want to offend the politicians, irrespective of whether it makes economic sense or not.

By the same token, we have a situation, where on some routes, if one drives about St. Joseph, St. Andrew, St. Lucy and these other places, during the course of the day, you would see empty buses driving about every half hour. A taxi service that the driver is providing for the conductor. The driver of the Transport Board buses is driving about the conductor all day long. In such situations, this is a waste of money and we will move sharply away from a situation, where the Transport Board has been called upon, as a bus company to provide an uneconomical taxi service. It is impossible to have a viable undertaking where buses are called upon to perform as taxis and we believe that by having buses perform the job as buses and not taxis that we will be able to reduce costs sharply without in any way interfering with the quality of the service that we are delivering.

3.35 p.m.

There is much more I could say about transport at this time, but before I run out of minutes, Mr. Speaker, I must say a little bit about roads. Everybody knows that there are holes in the roads. Anyone who has eyes to see can see that there are holes in the roads. I believe that

the deterioration of our roads is caused by a number of factors. No single factor is responsible for the deterioration of roads. The researches in my Ministry have revealed that within recent years some extremely large, heavy and cumbersome vehicles have been mercilessly pounding our roads. The basic road structure of Barbados is the plantation structure which was established some 300 years ago and built upon, and at the time our basic roads were constructed, it was not envisaged that they would be used by these enormous mack trucks that now pound the roads mercilessly, terrorise pedestrians as well as other motorists.

One of the first responsibilities of the Transportation Authority will be to deal with the question of controlling these gigantic trucks that now race up and down our streets threatening life and limb of other users of the road.

Mr. SPEAKER: The Hon. member now has two minutes.

Hon. Dr. D. G. BLACKMAN: I will break off from that to merely say that our road programme is based upon the following priorities. One, we believe that people who walk in mud and who walk on unpaved roads are people who have a higher claim upon our resources for roads, and that is precisely why the money collected by the transportation levy will be used in the first instance for the extension of our tenantry road programme, because in most of the tenancies when it rains our people are forced to wallow in mud. So our first priority will be to give paved roads to those people who now have no paved roads at all; like Lowthers, Belle Tenantry and many other plantation tenancies.

Mr. Speaker, our second priority would be to ensure that the roads that are now being used by traffic would be completely cleared of all pot holes as soon as it is humanly possible. I am a reasonable man, I will concede that over the past 18 months or so much of the deterioration in our roads has come as a result of the fact that emphasis was placed.....

Mr. SPEAKER: Your time has expired.

Hon. Dr. D. G. BLACKMAN: Thank you.

Mr. W. O. FRANKLIN: Mr. Speaker, Sir, I too would like to speak on behalf of this Resolution as put forward by my colleague thanking the Governor General for his gracious speech from the Throne and suggesting to the Government in power that there is room for a task force to examine certain aspects of our developmental problems in Barbados at today's date.

It is quite clear that the Government's position is that a task force is not necessary, and therefore I see my

role as trying to draw to the Government's attention certain areas posing problems in today's society that they could well turn their sights to and give consideration to proposals for remedies.

First, I note in the Governor General's Speech that he made specific reference to the proposed renewal programme in places like New Orleans, Cats Castle and Nelson Street and the upper Bridgetown area, and specifically the area in Greenfield for housing and commercial purposes. This brings me into an area, Mr. Speaker, that certainly men of goodwill can certainly supply whatever information and expertise that they have to any Government in power at this time in the area of the housing problem as they see it. It is my contention that this is one of the most serious problems that we are into, and all things look as if they will continue to grow, subsequently making it a tremendous burden on the Government, and any way that suggestions can be made to relieve this burden on the Government, I think one should take heed of.

The first comment, Mr. Speaker, is on the resiting for Capital Works. I must draw to the Minister of Housing's attention my dissatisfaction with the present resiting programme that is going on at St. Barnabas. If one would note on that section of road just north of CBC where the new road goes through a cutting, some places as high as 10 to 15 feet, I was quite surprised to see that in the resiting programme some of these houses are perched on top of this cutting with a vertical cut. It is my contention that it could be very dangerous to kids in those houses, since if any kid playing in those houses should ever come to the edge of that cut which in some places is 10 to 12 feet, I am certain they are going to injure themselves, if not killed by vehicles passing.

I am also surprised to see in that section of the road that the cutting on the western side has not been removed to a nice level to provide for sight line only, since it is my considered opinion it would not only improve the aesthetic appearance of the road but it would certainly be a lot safer for vehicles using that section of the road, than to have a modern road being built now coming through two high cuttings and then automatically you come through the cuttings you are on to the slipper road leading in to the resitement end. I am really a little bit surprised to see that this has been allowed to happen, and more so that the residents who through no fault of theirs, are perched on these high cuttings in a very dangerous way. I can only invite the appropriate Minister to have a second look at it, because personally I think this is putting those people at a terrific disadvantage.

The whole area of resiting, Mr. Speaker, as a result of the Capital Works programme is one that the Government needs to look at very carefully, and hand in hand

with that resiting is of course the necessary acquisition of properties for the continuation of Government's developmental programme.

3.45 p.m.

Mr. Speaker, one must admit something that is fundamental. When a Government proposes any capital work that calls for acquisition of property, it is first of all an imposition on the owners of those properties, and usually it is such an imposition that it brings about a lot of emotional trauma, sometimes, it breaks up communities, sometimes people who have finished paying for their houses in the evening of their days and look forward to contentment and just using their salaries for the necessities of life are found in a position where they now have to enter into new mortgages to supplement the payment for their properties in order to have an equivalent standard of housing as they had. This is due, Mr. Speaker, to the fact that the present compensation laws of Barbados specifically state that properties must be taken at the market value, and no doubt this is due to the fact that the law is based very heavily on the English law; but the peculiar situation of Barbados must be taken into consideration.

Barbados is a relatively small market and it is quite O.K. for you to say in a big real estate market that you can find an equivalent property quite easily. In Barbados this is not so. If I might try specifically to illustrate a point, let us take the area that is now causing quite a lot of concern, and that is the area at Checker Hall. There is one particular property I know of that is five years old, a three-bedroom bungalow, and according to the laws of compensation, in a big market you would quite easily find a property to fit that description within the neighbourhood of the property that was sold, but this is not quite so in Barbados. If you take that particular property, Mr. Speaker, I would bet that it is well nigh impossible to find an alternative property or property of similar quality in age and a similar portion of land anywhere within four to five miles of where the people are presently living, and in a community of which they have been part and parcel. In other words, it is not fair to say that compensation based on market value is the best thing.

I know that there are disturbances clauses that you put in, but very often the disturbances clauses are not properly compensated for either. For argument sake for something like re-location, it is within my common knowledge that the approach to re-location is just a figure for so many loads of moving the chattel part of the building, but certainly you will have to think that the owners of that property in purchasing an alternative property would have to enter into new legal fees for the purchase, they would have to enter into things like stamp duty on those new legal fees, it is quite possible that there will be

damage in the removal of their chattel and all these things will definitely have to be taken into consideration.

I must say that there seems to be a lot of co-operation and goodwill on the part of the present negotiators on the Government side and that they are considering these human traumas. I think the way that the Government or any future Government should look in order to remove this type of problem that we are now facing is to consider compensation based on replacement costs, and it would not only be easier, Mr. Speaker, it would not only remove all the present tangles and long drawn out situations and compensation negotiations that we now have with further problems on the owners of the property, but while these negotiations are going on, the rate of appreciation of property is far higher than the increased rate that is being paid on the compensation when it is arrived at, and therefore the owners are put at a further disadvantage which would be completely removed if you introduced a system of replacement value for compensation in compulsory acquisitions.

Mr. Speaker, some might argue that this would put people in a slightly better position than they were, but we must remember that if this is so, then you can cause more problems to the Government because people have been going through emotional traumas that you cannot compensate for in terms of dollars and cents, since some communities are completely broken up because of acquisition, and therefore if a person is slightly better off materially in that his house is a little more updated than the one he left, then I think it is only just compensation for all of the emotional ties he might have had in his own home which can never be compensated for by the sums that are paid. So I think we should have a very serious look at this and I would beseech and implore the present Minister responsible to have a serious look at the possibility of bringing about the necessary amendment to the Compulsory Acquisition Act so that you will have compensation based on replacement.

There has been a suggestion, Mr. Speaker, from another source, that compensation could well be placed on the valuation as put by the Land Valuation Department. Mr. Speaker, I think that would be a very wrong thing to do. That brings me on, Mr. Speaker, to another problem in housing. We must realise that every time an individual can afford to construct his or her own house it is an assistance to the Government who would not have to look for housing accommodation for that person and who would therefore be better placed to provide adequate housing accommodation for the very unfortunate ones, those who would never be able to own property of their own, and the percentage of those coming on this market is growing daily because of the terrific escalation of housing costs.

There has been, Mr. Speaker, in my humble opinion a terrific imposition on the owners of houses in Barbados by the present land tax, coming as it does in a situation where the interest rates on mortgages have just been raised, and therefore everybody paying mortgages found themselves one morning having to budget for in some cases \$90, \$120, \$150 to \$200 a month more because of the increased interest rate on mortgages. This imposition now of the land tax is further causing people to have a serious examination of whether or not it is worthwhile considering owning their own property or if they should not throw themselves at the mercies of the Government, therefore causing more problems in that particular sector of the Government's administration.

There are some problems, Mr. Speaker, in evaluations as I have pointed out. The problem as I observe it is that due to a lack of the necessary consultation on the various values in the different districts and their approach on the unit values to be fixed on the properties, there has not been horizontal or vertical equity in this present valuation cycle. If you examine them closely there are certain areas where the valuations are too low. There are other areas where the valuations are adequate, and there are some where the valuations are too high. Generally speaking, it is my personal opinion that in most cases valuations are not too high as people are crying out. The problem is that the rate has remained the same but due to inflationary trends which I will show later there has been a tremendous increase in the cost of housing so that the taxes due and payable by the owners are now proving a problem.

Mr. Speaker, five years ago a carpenter or mason might have joined together with his daughters and by dint of hard labour, sweat and toil and deprivation of other things been able to build what we call a bungalow which at that time might have been valued at around \$36,000 to \$40,000. Now these people, Mr. Speaker are very little better off by way of liquid cash in their pockets, but over the last five years due to inflation, due to the fanning of this inflation by consumption tax, due to the terrific increase in the price of materials for housing, due to increase in the labour costs, this is one sector of the cost of living that has far outstripped the rise in salaries. It is quite simple to illustrate that the cost of houses has risen more than 100 per cent within the last four to five years and in some cases as much as 120 per cent. This poor family now, Mr. Speaker, finds itself having to find twice as much money to pay their taxes if the rates are the same, plus, as I said before, an increase in the rate of their mortgage and it is definitely posing a problem to a lot of householders.

3.55 p.m.

Mr. Speaker, I think that it is short-sighted with any Government if, for the sake of bringing in.....(ASIDES).

Thank you, Mr. Speaker.

Mr. Speaker, I was saying I think it is quite short-sighted of any Government if for the sake of bringing in an additional couple millions, never mind that at this time you can deal with every cent that the Government can put their hands on, you create a situation where you put so much hardship on present householders that prospective householders come to the decision that it is cheaper to rent or to throw themselves on the Ministry of Lands than to go into housing on their own.

I would say that if you do a cross-benefit analysis, you will see that for every three persons that you discourage from going into private housing, that discouragement that has been brought on by any increase in rates. The money you took in that additional rate cannot compensate for the additional expenditure that Government would have to put out in their housing sector in order to provide and keep the stock of housing in Barbados at the present level.

You should not put disincentives in the way of young people from owning houses. Far from putting disincentives you should encourage young people in whatever way possible to own their own houses. Mr. Speaker, the time is ripe for a package of incentives for first owners of houses to be brought to this House in order for the young people of this country who believe that they too would have the opportunity to own a property for themselves and their children that would be in keeping with their expectation and that would be in keeping with the high standard of housing that we in Barbados are aspiring to because good housing, Mr. Speaker, breeds contented citizens. Contented citizens, Mr. Speaker, are less likely to provoke acts of crime and as a result, Mr. Speaker, your infra-structural cost in things like prisons, the upkeep of prisons and things like lawyers and Courts etc., is very likely to have a direct bearing being reduced by your improvement in the housing stock.

Mr. Speaker, it is a known fact that up to 75 per cent of the housing in Barbados needs renewal and I am saying that this is not a job that the Government alone can tackle. It is a job that has to be tackled by Government, private enterprise, individuals and everybody and therefore, Mr. Speaker, I am saying that you must not put anything in the way of young people who are aspiring to their own homes that would act as a disincentive. I would seek and ask the Minister of Housing to realise the tremendous problems that are being placed in his lap by the Minister of Finance getting in an additional \$2 million in Land Tax. This might cause the Minister of Housing to have to look for an additional \$80 million to build new houses for the people

who have decided that they are not going to go into housing any longer.

I note, Mr. Speaker, too in the speech from the Throne that it is the intention of the Government to accelerate the Plantation Tenancies programme. I would like to draw to the appropriate Minister's attention a flaw in this programme as I see it.

The programme, Mr. Speaker, states quite specifically that the plantation owners are compelled by Law to sell approximately 3,000 square feet or 1,000 square metres at a price about \$300 to anyone who so qualifies but the position in most tenancies, Mr. Speaker, is that there are a lot of those tenants who not only hold housespots but a bit of agricultural land as well with the spot.

I am saying that it was a slip by the drafters when instead of saying that plantations should be compelled to sell their 3,000 square feet of land, they did not go on to say that the plantation owners should be compelled to sell them the parcel of land that they now occupy and work as long as they did qualify under the particular proposal because, Mr. Speaker, this is posing a problem. There are lots of people who are asking what is going to happen with the piece of agricultural land.....(ASIDES).

Thank you, Mr. Speaker. It is very distractive, Mr. Speaker. My thanks to you, Mr. Speaker.

Mr. Speaker, I am saying that in these tenancies there are lots of people who have their houses to the back. There are keeping a few sheep and pigs in their backyards and they are growing some canes or vegetables on the piece of agricultural land that they have occupied for a long time. These people are asking, Mr. Speaker, all of us who have tenancies, what is the position with the additional land over 3,000 square feet that they now occupy.

I am hopeful that the plantation owners would have some type of civil conscience and responsibility and allow these tenants to have the entire piece that they now live on and work adjoining their lands at the same unit rate as was fixed for the housespots.

I was indeed very glad, Mr. Speaker, to have heard the Minister responsible for roads stating that the plantation tenancy roads would be taking top priority as far as money for roads is concerned because, Mr. Speaker, I think it is only fair that for a sector of our community that has given so much that they should now be compensated for their labours that they have given for years, they themselves, their parents and their grandparents in the agricultural pursuit of this country.

It is not fair, Mr. Speaker, to tell a man or a woman that he is the owner in fee simple of a parcel of land but a doctor or a person cannot get out of his or her house after a shower of rain. They might have to use two pairs of shoes, put on an old pair to come out to the front road and then put on another pair of shoes to go to work or to go to Church and therefore I am very glad to see that this is taking place.

Quite recently, Mr. Speaker, we passed in this Chamber the Chattel House Mortgage. It is within my knowledge that this mortgage programme has not got off the ground as yet since I have been made to understand, Mr. Speaker, that due to a lack of funds, up until recently, no application has been successfully completed for Chattel Mortgages.

Now, Mr. Speaker, I think this is an area that we really seriously have to get down to because, Mr. Speaker, having passed the Chattel Mortgage Legislation in this House, it is not fair for those people who cannot now get money from the Banks because of the present situation not to be able to get the Chattel Mortgage. I would like to be told that this is not true. I would like the Minister to check it.

I was told that due to a lack of funds no Chattel Mortgages have been processed up until recently. I would like the Minister to give me the assurance that this is not true. I would be very happy, Mr. Speaker, if I could hear that it is not true because there are lots of people out there lining up for Chattel Mortgages and this is something that I had discussed years ago with the Barbados Mortgage Finance Corporation and we have to be realistic that it will be a long, long time, Mr. Speaker, and maybe none of us may be alive when we can do away from using wood as building material in this country.
4.05 p.m.

Mr. N. K. SIMMONS entered the Honourable Chamber and took his seat.

And, therefore, with the situation where a 30 by 20 wooden bungalow is costing anywhere like \$22,000 to \$24,000, these days Mr. Speaker, you certainly have to provide facilities by way of mortgages for the working class people, the carpenters, the masons and those who are not so fortunate to be working for \$30,000 or \$35,000 a year to qualify for the mortgage at West Terrace, to be able to build their houses, Mr. Speaker.

On the problem, Mr. Speaker, of West Terrace, I am also heartened to hear that the hon. Minister has acknowledged that the Government's function is not in the area of housing where people would have to be earning \$30,000 to \$35,000 a year to qualify for it. And, I am very glad that the Hon. Minister has said, quite categorically, that

the Government would be concentrating on cheaper housing to enable the middle income and the lower middle income earners in this country, Mr. Speaker, to be able to own a house.

In this respect, Mr. Speaker, I am going to invite the Hon. Minister — because he seems to have deemed, Mr. Speaker, that the National Housing Corporation has been a little reluctant in going into new technology, as far as, housing is concerned and in a situation like Barbados, where investors are very cautious, they too are not going into new technology.

I think the National Housing Corporation is going to have to have a look at technology like spray concrete that is being used in Jamaica for the low cost housing, and anything to reduce the cost of housing. I think the National Housing Corporation is going to have to get into this area of experimental housing, in order to bring down the cost of housing in this country.

I also think, Mr. Speaker, the Ministry of Trade is going to have a serious look at the costing, the pricing structure of housing materials in this country because if they continue this way, Mr. Speaker.....

Mr. SPEAKER: The Hon. Member has just two minutes in which to wind up.

Mr. W. O. FRANKLIN: Thank you, Mr. Speaker. Mr. Speaker, in my two minutes, I know that it is the Government's intention to continue the national parks. I would say, Mr. Speaker, that this is an area that we must encourage, but, in the continuation of our national parks, Mr. Speaker, there are a few things we have to look at. We are in the age, Mr. Speaker, of pollution and we are very much in the area of noise pollution. It is becoming well nigh impossible now, Mr. Speaker, to go anywhere in Barbados for a few minutes of relaxation, may it be at the beach or any of the few parks that are now available without loud blastings of walking discos that we now see with the funk music by teenagers blasting away at your ears, so that you cannot have a little piece and quiet.

Mr. Speaker, that is O.K. for the people who enjoy that type of music. Sometimes, you are driving along and you see moving discos, motor cars with their disco sets turned up and we are becoming a place in which we will all soon be deaf. The pressures of life are increasing every day, Mr. Speaker. It is absolutely necessary for us to be able to go some place in peace and reflect, in order to stop young people from becoming so depressed that they commit suicide and in looking into anything like national parks, you have to look at areas where this type of pollution, Mr. Speaker, would not be allowed, so that people who might want the peace and quiet of the country side would also be able to enjoy the national beauty of Barbados.

Mr. Speaker, thank you very much. (ASIDE)

Mr. SPEAKER: The question is.....

Hon. DeL. O. BRADSHAW: Mr. Speaker, I have listened quite attentively to the Honourable Member for St. Philip North and he has made a number of comments but I am afraid he lacks a lot of back-up information.

I would like to make a few comments and set his mind at ease and a number of persons who are not aware that this Minister is fully aware of the housing situation and the importance of housing to this country or any country for that matter. Canada is a very large country and Canada has a housing problem. Reports out of Canada reveal that mortgage rates have gone beyond 20 per cent. Over 70 per cent of the housing stock is over 30 years. People cannot get mortgages and people cannot pay their mortgages and they have resorted to desperate means, at times fleeing their homes. But, Mr. Speaker, Sir, that situation is not prevalent in this country.

We, in Barbados, are fortunate in that we have got livable accommodation and we do not have a situation where as the Hon. Member for St. Philip North has said that 70-odd per cent of the houses are old. He did not quite say what age he was referring to and I would be very glad to learn about that 70 per cent and what is the age that he was referring to. It is true that if houses are not built on a regular basis that the housing stock will get older and in the process of time, it will pose a very serious housing problem to any administration. This is one of the situations that my Ministry has been addressing itself to and as a result, my Government has set up a housing unit within the Ministry of Housing to deal with this particular aspect.

We are watching, very closely, the reports and the statistical data relating to housing, so that we would be able to plan to meet those problems as they relate to housing in Barbados. It is quite fair for one to get up and talk about the housing needs, but, where is the statistical data? What sort of information, what sort of data is available to one to prove that the young people want houses and that we should build more houses to satisfy the young people, as the Hon. Member for St. Philip North has said.

A number of people, Mr. Speaker, make applications for houses, but, you have first to decide whether those applications or those applicants are genuine. We are now in possession of that information which would determine our real housing need. The last census in 1970 showed that Barbados owned some 60,000 odd houses and we have not had an updated census which will provide us with the information which would assist us in planning properly or effectively for remedying the housing situation.

I have said all this, Mr. Speaker, to show that before one can talk about housing, one must be able to understand that you must have the statistical information, so that you can plan properly and in due course, I am sure that the Ministry of Housing and this Government will be able.....

4.15 p.m.

Mr. L. L. SISNETT: Mr. Speaker, if the Hon. Member will give way, I would like to draw to your attention that we do not have a quorum.

Mr. SPEAKER: Let the bell be rung.

The bell was rung and a quorum was obtained.

Hon. DeL. O. BRADSHAW: Mr. Speaker, I was saying that we as a Government are aware that there is a demand for housing. We are also aware that in the lower income bracket there is a more desperate need and demand for houses, but I have said, and I am on record as saying, that the Government is aware that the lower income people are desperately in need of houses and there is a great demand in that particular area, and that everything will be done to adjust and remedy that particular situation. I am on record as saying that, so there is no cause and further need for concern over the fact that the Government is not catering for the lower income people.

I have expressed my concern over the fact that houses for the lower income are not turning over with the rapidity as one would expect or one would wish, but there are certain impediments, Mr. Speaker, which we must understand. People in Barbados think that the Government, the National Housing Corporation and the Ministry of Housing should be providing all the houses in Barbados. This belief should not be allowed to continue. I do accept the fact that the Ministry of Housing has a responsibility to provide houses, but it must not be felt that it should be the sole builder or provider of houses. I share the view, and my policy will be dictated by the view, that the private developers and those involved in the private sector must also be encouraged and suitable incentives must be given to them so that they too will assist in housing the nation. It is not a situation where the Government must and should provide all the houses. I have said repeatedly Government alone cannot do it, it will call for a concerted effort of the private developers along with the Government in order to meet our housing needs.

I have also said, and for the record, Mr. Speaker, the Government where possible, wherever we find land available, will be looking at the possibility of inviting private developers to construct houses and give them some other incentive so that they can participate in the

actual house building programme. No one should expect the National Housing Corporation to build a thousand houses a year. It is not equipped with the manpower, with the expertise to do that, it just is not equipped.

There is another factor, Mr. Speaker, which operates against it. Since the National Housing Corporation has to be subsidised by Government, money must come from the Ministry of Finance and Planning, and taking into consideration the fact that under \$10 million annually is allocated to the National Housing Corporation, one knows that this in itself means that National Housing Corporation would not be able to build a thousand houses from under \$10 million that is allocated, so we must look at these things. The National Housing Corporation was not geared to be the sole builder of houses. It is a system and every encouragement must be given to that Corporation to assist in house building.

I do feel that the cost of houses has gone up rapidly, and I do feel also that something ought to be done to restrict the spiralling cost of house building. Therefore, Mr. Speaker, we have to look at new systems and new building techniques, we have to try and see where we have been expending, where the cost has risen and how best we can reduce the cost of house building. One cannot say the cost has risen because the three bedroom, two bathroom house in St. Philip may be put up for a totally different cost than one that is put in St. James or in Christ Church. It all depends on the sort of material used, it all depends on the sort of finish you need, and it depends on whether you have it built by a contractor or some other means.

Mr. Speaker, all these are factors that one must consider when one talks about the cost of houses. It is true that systems and people have been approaching the Government from time to time to erect houses, cheaper houses, but this is what we find, when it comes to the local cost. Houses are imported, there is a duty that has to be put on the houses, or the material or that part of the structure that is imported, and by the time you erect that house the cost exceeds the original figure. We have found that, so though the speed or the time or erection may be quicker, we have got to look at the eventual cost.

We in Barbados are accustomed to the block building, and I have said that when one analyses the cost and what constitutes the eventual cost of the house, one sees that the cost of labour is extremely high. One sees that, and one has got to look very seriously at ways and means of reducing that labour component. It has caused a lot of concern, and only this morning I saw a submission to my Ministry which said the cost of erecting a three-bedroom board house, a chattel house, will be \$30,000, and when I examined those figures more closely, I found that those figures did not reflect the true cost, they were figures

that were pulled out of a bag. I am sure that the cost which was submitted could have been reduced to somewhere in the vicinity of \$18,000 to \$20,000, so it all depends on who is doing the costing. I am of the firm opinion that house costs in Barbados can be considerably cheaper if the costings are done properly and not pulled out of the bag.

Mr. Speaker, these are the things that one has got to look at. We have got to look closely at the cost of the building material, and I would go as far as to say I am very dissatisfied with the figures that are quoted for building certain units. There is no reason to doubt that the two-bedroom wall-constructed, concrete-constructed house can be put on the market for \$40,000. I am convinced, as the Minister responsible, that this can be done. It can be done, Mr. Speaker, but I will say too that there are some units that can be put up for \$60,000 and \$70,000 which are now sold for over \$100,000. These things must be revealed. I am not one who is going to fool the public that a \$60,000 or \$70,000 house cannot be put up in this day and age. It depends on the design, it depends on what you want, what sort of finish you want, and if you want certain pretty things in your house, you have to pay for them. But the average three-bedroom, two-bathroom house can be constructed for \$60,000 and \$70,000. It can be done.

4.25 p.m.

Mr. Speaker, the Hon. Member for St. Philip North raised the question of land acquisition and spoke of the discomfort that is caused from land acquisition, and he also raised the question of compensation resulting therefrom. The Hon. Member is aware that there is a Land Acquisition Act and in the Land Acquisition Act there is provision for compensation and how compensation is computed or should be determined. If the Hon. Member would like to see a different form of compensation from what is spelt out in that act, then as an Hon. Member of this Chamber he has the privilege and he is free to introduce an amendment to the Act. I am sure the Hon. Member ought to be told by his colleagues on the other side that he is free to do that, and I would welcome any amendment that would go a long way in settling some of these problems which arise from land acquisition.

I have also said that persons whose lands have been acquired usually have problems because the necessary dialogue has not been established. Some of them do not know their rights. They do not understand what the acquisition is for and they do not understand how Government arrives at compensation for their properties. Mr. Speaker, sometimes efforts are made to liaise with people and it is done successfully, and at other times no effort is made. It is unfortunate that the Ministry of Lands had to do the acquisition for other Ministries or other Departments, because when the

question or the problem arises from acquisition or from compensation, it is the Ministry of Housing and Lands that gets the licks. I have always said that I am going to set a policy that whenever acquisitions are made that there is a liaison between the persons who will then become the vendors and the Ministry of Lands as well. I feel that the Chief Surveyor should be the go-between person and that he should play a more active role in the acquisition process right up to the point where the actual compensation is being paid. I think that will go a long way towards relieving the situation which we have resulting from land acquisition.

I want the Hon. Member to understand that I see no problem in negotiating or compromising with persons who are suffering or who claim to be suffering from an acquisition by Government. I just last week visited Checker Hall and there was no real problem with the people there. The Hon. Member for St. Lucy was there and he would tell you that the people were only too willing to settle with Government, but there was a total misunderstanding because the figure that was quoted to them was the figure that was quoted over a year ago, and Mr. Speaker, the people were told on that occasion that part of their lands or their properties were not needed for the acquisition, and some months after they were told it was needed, but there was no adjustment in the two figures that were offered and hence there was total confusion.

The offer to some of them for the agricultural land remained the offer for the entire property when in fact the offer should have been changed once additional acquisition was taking place. That caused confusion. The people there would like to be resited, but no one was in a position to negotiate this question of resiting; so therefore there must be confusion. (*Asides*) I agree that there was pure confusion. I found that out, but I am sure that those residents or the people from Checker Hall are satisfied. They now understand all the ramifications resulting from the land acquisition. I have told the Hon. Member for St. Philip North that it will be settled and that compensation will be paid to those persons and at least two persons have agreed and accepted and they are now awaiting their cheques. The cheques will be coming to them and the other persons will be compensated. It was just a matter of deciding on a reasonable figure and I have every reason to feel that the figure that has been represented by my Ministry is a figure that will be accepted, and compensation will be coming very shortly for those persons. So there will be no problem.

Mr. Speaker, we have got to understand that most of those problems that Government is facing have arisen from the fact that there was no real dialogue, the sort of dialogue that would lead to people understanding why things were done, and what are their rights under the law.

There are some people who for narrow political purposes have sought to confuse the whole issue. That is what they have done. Some persons have sought to confuse the whole issue so that they can make it very difficult for the Government.

The Hon. Member for St. Philip North has raised the question of St. Barnabas. I am sure he does not fully understand what is going on there. He does not understand that a decision was taken to grade or slope the eastern end of the road, to prevent what he has ventured to fear, the fear of people or children dropping over some precipice of 18 feet or so. We do not plan that way, Mr. Speaker. The road to the western end above Jessamy will be closed. There will be no access from the milk plant end. I thought you would have seen the plan and know what is going on.
4.35 p. m.

The people up there are quite satisfied because I took time out on Sunday afternoon to meet all of the persons that would be affected and I explained to them, showed them the plans and they are quite satisfied with the resiting programme and where they are going.

They will be planting trees to beautify the area and plans are afoot to provide them with some plants to also enhance the beauty of the area and I am sure if the Hon. Member had taken a ride up there he would see that it is one of the most magnificent views in the area as well. I do not want to touch on this because I think the Hon. Member has expressed it is fair about the lack of knowing exactly what is going on in the area but he is free to ask me. I have always invited him to ask me certain things without getting into some hot water on the Floor of this Honourable Chamber.

On the question of the New Orleans/Cats Castle and Greensfield area, a study has already been conducted in the New Orleans area and I had the privilege of seeing the study last week. Very shortly the report will be going to Cabinet so lots of recommendations have been made for down there. It is a very interesting study and the Cats Castle/Greensfield area is not yet completed but I am very glad to know that the Hon. Member has raised this question because the New Orleans area certainly needs upgrading. The study reveals that over 80 per cent of the houses in that area are over 25 years and something has got to be done there and to rectify that problem will take vast sums of money but Government is looking at this particular area.

Government has also, Mr. Speaker, since we assumed Office in 1976, made available to potential homeowners..... we have increased the mortgage from \$32 000 to \$100 000. That is what we found it at, \$32 000. We have made available chattel mortgages and the Hon. Member and other Hon. Members have expressed

their concern over the fact that the Banks have not been releasing money for chattel house mortgages. Mr. Speaker, Sir.....

Mr. SPEAKER: The Hon. Minister has one minute to wind up his debate.

Hon. DeL. O. BRADSHAW: Mr. Speaker, Sir, the Government has made it possible for chattel house owners not only to have mortgages but to have their properties insured and certainly this is a very much welcomed move by all chattel house owners. I must also add that the Government's National Housing Corporation has increased the loans for chattel house buildings from the mere \$2,000 or \$3,000 which we found it at in 1976 and now you can get as much as \$18,000 to build, so we have increased it and we have been looking at the lower income.

I want to end, Mr. Speaker, by saying I have noted the concern of many persons in the community that efforts must be and should be taken to look after the lower income and I have said before that my policy and the Ministry of Housing policy will be geared to look after this income group because one feels that there is a justifiable reason for emphasis or Government's emphasis to be directed in this particular direction.

Mr. J. G. ODLE: Mr. Speaker, Sir, this Resolution is critical of the Government and I propose to move an amendment to the Resolution. I hereby propose, Mr. Speaker, that we delete all the words after "Speech" in line 1 of paragraph 2 of the Resolution and substitute therefor the word "and congratulates Government on the enlightened proposals contained therein." (APPLAUSE).

Mr. L. L. SISNETT: Mr. Speaker, I beg to second that.

Mr. SPEAKER: This brings us to the end of Private Members' Business for today. Government Business is the Instant Order of the Day. When the Suspension was taken, the Hon. Member for St. Michael South was addressing the Chair.

Mr. L. E. SANDIFORD: Mr. Speaker, I am making the point that this particular piece of legislation is of importance to a large number of persons in this country including the journalists, the artists, the photographers and so on. I have mentioned the word journalists although I do not recall in what specific way they would be protected under this Act.

I am glad to hear from the Deputy Leader that their feature articles may be protected because I know this is sometime a difficult area of copyright law and I know that journalists at times find themselves on the losing end as far as copyright is concerned. Sometimes they do not get the full benefits of their journalistic

creations. Speaking as a journalist myself, a feature writer, I know some of the problems that are involved in this particular area and perhaps when we come to look at the details of the Bill this question may be examined in a little more detail.

I was on the question of the Caribbean Broadcasting Corporation and other broadcasting stations and in particular looking at the question of when records are playing on the air whether the persons who produce those records or the artists on those records get the necessary compensation for the records, whether it is a folk singer a calypsonian whatever it may be, whether when those records are played and the disc jockeys — I see one of my friends smiling. He was an expert disc jockey. I compliment him on his work in that particular field. Not a....., the best of them — whether the artist get any compensation for their artistic and photographic work.
4.45 p.m.

I have heard that it is said that they are giving the calypsonians, folk singers and others publicity by playing the records. So, they get the publicity. I believe that it is said that they get the publicity and hence, there is nothing else for them. The publicity would help to sell their records. I wonder, Mr. Speaker, if that is really enough. I believe myself that this question came up some time ago at the BBC and that particular argument about publicity being the compensation, was lost and that corporation found itself having to pay.

I believe it is called needle time — I do not really know what it is called, but I believe that is the term used — needle time to the recording artistes for the work they have been doing and maybe this is yet another area in which our local performers, our local performing artistes might very well look into, if they are properly organised and if they are looking into their own interests. From the Floor of the Honourable House and from these Opposition Benches, we are saying that this particular matter should be thoroughly investigated.

I do not wish to speak for much longer on this particular matter, although there are a few more points that I will have to make. (ASIDE) I am very much concerned, Mr. Speaker, about the requirement that all literary and artistic works, as defined in this legislation, that there should be some place, where it should be deposited. For some time, we have had a number of persons who deal in the area of ideas and who, from time to time, produce certain works including theses. I am concerned that none of that work or very little of it which is produced by Barbadians, some of them at the expense of the Barbados taxpayers that those works cannot be found anywhere in Barbados for public appraisal, but they are to be found in the libraries of institutions outside of Barbados whether it is Canada, the USA, Britain or elsewhere.

I am referring, for instance, Mr. Speaker, to works like the very learned thesis produced by the Hon. Member for Christ Church East. I believe it was. He produced a learned thesis on some aspect of the Barbadian political scene and I do not believe that a copy of his learned work is available in the Public Library, or in the Archives, or anywhere in Barbados. (ASIDE: Manchester.) Manchester. Our goodly Doctor on that side, very distinguished Social Scientist and Professor, I am not aware that I can go to the Public Library and read any of his researches or his Doctorial dissertation. I believe that where Barbadians have reached eminence in the fields of learning and in particular where the work itself and their education may have been paid for by the taxpayers of Barbados, there should be some requirement, there should be some device, whereby those works should be available in this country. I would hope that this is a matter which would be examined, maybe when we look more closely at the depository, we may be able to take up this particular matter.

Mr. Speaker, I have drawn attention to the need for adequate administration of these pieces of legislation that we are dealing with. I would like to join with the Hon. Member for Christ Church West, in paying a tribute to the draftsmen or draftsman who have prepared this particular piece of legislation. Sometimes the work of Parliamentary Counsel goes unrecognised and sometimes, we can only call them — sometimes, they are called "crabs in a barrel". But, I am pleased to note that on this occasion, the work of at least one of the Parliamentary Counsel has been recognised. An outstanding piece of drafting has been done here and I would like to join with my colleague and friend, the Hon. Member for Christ Church West in paying that tribute.

That is not to say that this may be perfect legislation as such, because as in everything, we will not find perfection on this earth and it will be for those of us who come after, to improve on this legislation and to make sure that in this area, the intellectual and cultural development of Barbados would be adequately safeguarded.

I would like to touch upon one other matter because I am not certain whether there would be any transition provisions or how the problem of those who may be operating under the existing Copyright Laws would be accommodated whether there would be any advantages for them, whether their rights would have to be protected under the existing Laws or whether they would somehow or another be encompassed by this new legislation. It may be that the agreements which have been entered into, under the existing Law would run their normal course and that it is only those who come under who may be protected under this new piece of legislation when it becomes Law that they would be protected. It is perhaps an area that we should advert to, so that there

should not be any confusion or misunderstanding in these areas.

I believe I have made most of the points that I wish to make now as a Second Reading speech. I do hope that the Hon. Minister would take up the points that I have raised and give us the necessary answers or assurances in response to the points that we have made.

Mr. SPEAKER: The question is.....

Hon. H. B. St. JOHN: Mr. Speaker, Sir, I think that there are a number of points raised by the Hon. Member on the Other Side which we should respond to.

First of all, on the question of the conventions. The two basic conventions are the Paris Convention which has been amended, from time to time, but, it is known as the Paris Convention.

4.55 p.m.

A number of amendments to that Convention have taken place, so that you accede to the Paris Convention. Now, Sir, in respect of the Berne Convention, the Berne Convention has been amended from time to time. The basis of the Berne Convention is to deal with the question of phonographs and reproduction by modern electronic means, so you will appreciate that as this has been developed, there have been amendments to the Convention to deal with the modern developments, so that you accede to the man Convention again.

Now, the cost of acceding to the Convention is nothing, you do not pay to accede to the conventions. It is true that some countries do not join all of the additions to the main conventions, but that depends on whether the countries want to deal with the question of reproduction by phonographs or whether they want to deal with the copyright in relation to broadcasting. A person has copyright in the material for the broadcast, and if he makes a contract with a broadcasting company, the copyright is in the context of the broadcast and they are entitled to reproduce it once, but if they serialise it obviously the copyright owner is entitled.

Now, our Act is a very comprehensive Act, because it not only deals with copyrights, but it also deals with neighbouring rights. Those are rights which are similar to copyrights but they relate mostly to the question of reproductions by broadcasting or television or by phonographs, so we have a comprehensive Act dealing with all of these matters. We thought it very wise to pass a very comprehensive Act, because we are passing our law for the first time and we are well aware of the developments that have taken place in electronic reproduction means.

Now, we subscribe to WIPO. There are three categories of subscription, Barbados is in the lowest category. It costs us about U.S. \$3,500 a year and for that we have access to the best advice possible on this question of intellectual property. I think the Hon. Member would be well aware that if we had to pay independent consultants to draw the laws that we have got drawn for us, that the cost of US\$3,500 would not even have been the down payment to the people to draw it, so that WIPO is a very, very useful organisation. We are in the smallest category of subscription and it is regarded by all developing countries as being a very objective body, and a body which has helped them to build up the necessary expertise.

Now, with respect to the administration of the Copyright Act, strictly speaking the Copyright Act sets out the legal rights in relation to copyright. There is no question of enforcement machinery in the legislation with respect to this. In other societies, groups of interested persons set up bodies who monitor the rights of members. You have a Society of Authors, there is a thing called the Performing Rights Society in the United Kingdom. These are bodies set up by people who have a common interest in protection of the economic value of their copyrights and rather than each one of them having their own individual lawyers or individual agencies for the purpose of enforcing their copyright, they become members of the Performing Rights Society, and that is the body that looks after the interests of the copyright of all of their individual members all over the world. So that is really the body that protects the rights of the individual holders.

Now, I would hope that in a country like Barbados that some of our unions, like MEGOB, which is a typical example, can perform a very useful role, provided of course it can get its members to cooperate in this type of activity, but I am looking forward, because they have played a very useful part. At least the President was at every one of the lectures — they played a very useful role in trying to motivate people as to the importance of copyright. There are other people of course, other areas. We probably do not have enough authors in Barbados to form a Society separate by itself, but I have no doubt that from the point of view of the musicians, if they have any sense, if they can cooperate, they must learn to do like other workers, they have a trade union that protects their rights, they must have their own similar organisation to do it.

We are looking at an intellectual property office. It is a fact that — and this more relates to the other Bills, not this Bill, but I think it is a useful point to raise — we have amended the law to say that the Registrar of the Supreme Court will be the Registrar of intellectual property until the office has been set up. The Canadian Government has very kindly consented to do a feasibility study on the cost of an office for us out of their own CIDA funds. The experience in other

countries has been that the revenue that you collect from registration of trade marks, patents and industrial designs is more than sufficient to pay for the cost of operating an office. At the present moment we know what revenue is collected for the patents and trade marks.

Trade marks is the largest source of revenue and it would pay for an individual but would it pay for an office? That is the thing. We do not know yet the impact of the industrial designs, because we have no industrial designs body in Barbados, so that the work will be continued in the Registrar's Office in respect of that until this study has been done. This study will set out a basis of charges and the Ministry of Finance is quite firm, and we agree with the Ministry of Finance in this respect, that if you are to have a separate office, that the full cost of the office must be borne by the revenue that is collected; otherwise it would be an additional burden.

I also would like to point out that modern means of storing of records have greatly reduced the amount of office space that is necessary. The microfilming and microfiching — microfiching is even more advanced than microfilming — and this is the pure province now of the Ministry of Information and Culture under their new information scheme that they are working on with help from abroad, we are trying to introduce this modern means of storage in Barbados. There is a microfilming unit at the Archives and it is quite capable of microfilming all of the documents that we have, say, in the Registry in Barbados, and the storage space that is necessary would be much smaller. This is one of the reasons also why they are coming to a conclusion to have the whole of this depository and intellectual office under one umbrella.

We also have to consider in respect of the patents and industrial designs that there must be an evaluation committee, but we will deal with that in more detail. So I think that it is not a question of the Government not being aware of the need for proper policing, but certainly in respect of copyright it is in the interest of the authors themselves, the owners of the copyright, to form some association, to join some association and let that association look after their interest.

5.05 p.m.

I would not be surprised at all knowing how commercial some of these organisations are that you might not see a branch of the Performing Rights Society in England set up and established in Barbados because they get a percentage of the authors' rights. I would not like to see it, but if the people do nothing here in Barbados, the Performing Rights Society have an agent in Barbados, but that agent is to protect the interests of the English authors when they are reproduced in cinemas in Barbados. They function here in Barbados. They go around at the discos and at the cinemas and if they hear

you playing a tune belonging to one of their members, they come and say that you must pay so much for reproduction.

There is no reason why our people cannot get together and do the same thing, or they can become affiliated to that because they protect them in England, they may protect them abroad and they may act as the agent here. There is a tremendous lot of scope, but in this like in anything else, unless they are united they are not going to make as much headway, and the Government cannot promise that we are going to pass a law not only to protect them but that we are going to be their enforcer too, because we are not enforcers of the civil law for other people unless you come within the terms of legal aid.

On the question of journalists, this does cover the neighbouring rights provision, and I can give the Hon. Member an example; feature articles written by journalists who are independent contractors, not employees of a newspaper, but they write once a week or so, your realto type columnists like Lawson Bayley, John Connell, Gladstone Holder or any of them, or Henry Christopher. The basic thing is that these articles are copyrighted and should not be produced except on the payment of a syndication fee. Journalism may come to the point in the Caribbean in which a number of these columnists, when they reach a certain standard of course, not at the present standard necessarily that they have reached now, their articles may be of interest to other newspapers similar to what happened in the United States or in Britain where you syndicate. I believe that there is an ex-Prime Minister who is now syndicating articles. I believe that Manley in Jamaica now write articles for a number of newspapers, and obviously the unlawful, in a sense, reproduction of these articles without a fee would be depriving a person of the full economic benefits of his product, and that is why this reproduction is included. I think, Sir, that covers most of the points raised by the Hon. Member.

The question that the Bill be now read a second time was put and resolved in the affirmative without division.

On motion of Hon. H. B. St. JOHN, seconded by Hon. H. deB. FORDE, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

Clauses 1 to 4 inclusive were called and passed.

Hon. H. B. St. JOHN: Mr. Chairman, I beg to move that the remainder of the Bill be taken in parts.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

Part I was called.

Hon. H. B. St. JOHN: Mr. Chairman, I beg to move that Part I stand part.

Hon. H. deB. FORDE: I beg to second that.

Mr. L. E. SANDIFORD: Mr. Chairman, I wonder if the Minister responsible here would care to make a comment — I believe I am on Part I — on Clause 24 (g) on page 18, which reads: "Subject to subsection (4), the reproduction in the news media or the communications to the public of any political speech delivered in public" I wonder if the Minister responsible would care to make a comment on this.

Hon. H. B. St. JOHN: Do you mean as to whether it is covered? It is covered. Section 5 covers it.

Mr. L. E. SANDIFORD: What are the implications in this?

Hon. H. B. St. JOHN: There are no implications in this. It is covered. You have copyright.

The question that Part I stand part was put and resolved in the affirmative without division.

Part II was called.

Hon. H. B. St. JOHN: Mr. Chairman, there is an amendment to Part II. On page 24 there is a typographical error. Between "31" and "Subject" (1) should be inserted, because there is a "31 (2)".

There is another typographical error on page 27 in subsection 5, line 2. The word "a" should be inserted between the word "of" and the word "phonogram".

Subject to that, I beg to move that Part II as amended stand part.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

Part III was called.

Hon. H. B. St. JOHN: Mr. Chairman, I beg to move that Part III stand part.

Hon. H. deB. FORDE: I beg to second that.

Mr. L. E. SANDIFORD: Mr. Chairman, I am not certain if it is in this one or the preceding Part that we have just done that these rights of the journalists are protected under the neighbouring rights, but I have been searching frantically and I did not see where the journalists are specifically protected. I have looked under the neighbouring rights and I do not see, but then again my unfamiliarity with the legal terminology may be the problem.
5.15 p.m.

Hon. H. B. St. JOHN: Section 5 says "literary, artistic and scientific works include (a) books, pamphlets and other written works." That is very, very wide. Page 5, "and other written works." That is very, very wide. "Books, pamphlets and other written works." If I write a feature article that is a written work. It is a literary work and it includes, it extends and amplifies. It is so.

Mr. L. E. SANDIFORD: I take your word.

Hon. H. B. St. JOHN: It is a written work. It includes.

Mr. L. E. SANDIFORD: In Part III there is a Section 46(1) page 36 which appears to me to be drawn in some very wide terms. I am aware that it takes us back to the definition of folklore and at first splash on reading it one may think that it is an offence to import any works of folklore from any place and I believe this takes us back to the definition of folklore which then takes us back to another Clause.

I must confess that I had a little difficulty when I read this. It did appear to me to be drawn in pretty wide terms but then I had to go through a maze that took me back to the definition Clause which then took me back into a Clause within the main legislation itself so am I right in assuming that folklore here means folklore that relates only to the cultural heritage of Barbados and if so, does it mean that if anyone in St. Lucia, or Trinidad, or Jamaica, or Brooklyn, New York produces any folklore material in respect of Barbados that it cannot be imported into Barbados?

I just raise the question and I will like to be clear on this because this particular Clause here states, Clause 46 (1).

Without the written consent of the Minister, no person shall knowingly import into Barbados or sell, offer or expose for sale or distribute in Barbados any copies made outside Barbados of

(a) any works of folklore; or

- (b) any transactions, adaptations, arrangements or other works or transformation of folklore."

When I trace or follow this back, there is a definition of folklore in Section 13 which relates to material about Barbados but I am specifically asking the question. If someone outside of Barbados produces some artistic, dramatical musical, literary or photographic or whatever kind of form, something about Barbadian folklore, would you have to get the permission of the Minister to import that material into Barbados and if so, why? I raise the question.

Hon. H. B. St. JOHN: Look at Section 13. Let the Honourable Member look at Section 13. The folklore rights vest in the Crown. It is the Crown's property. It is correct. You look at Section 13, "the author's rights vests in the Crown to the same extent as if the Crown had been the original creator of the folklore." It is Crown property. Folklore is Crown property. That is the reason. That is why you have to have the consent of the Minister because the Minister is representing the Crown in respect of folklore. The definition of folklore is in Section 13. That is why you have to get the permission.

Mr. P. M. GREAVES: Mr. Chairman, I too have experienced difficulty and that has not been dispelled by the explanation given by the Hon. Minister. Does it mean that if a Trinidadian produces a folklore that the folklore which the Trinidadian produces about Barbados in Trinidad is Crown property? Does it mean that? That is what I would like to find out because this seems at this stage to be a difficult matter to me. It is difficult. It is not as easy as it appears.

Hon. H. deB. FORDE: Mr. Chairman, the matter is not a difficult matter. If the Hon. Member would read Section 13 the definition of folklore is quite specific. It says that it is a literary and artistic work which "constitute a basic element of the traditional and cultural heritage of Barbados", but it must go further — "were created in Barbados by various groups of the community." So unless the element of creation in Barbados by various elements in the community is present and that there has been a survival from generation to generation it does not become the folklore of Barbados.

Now it is intended to preserve the folklore so that it is not purloined by persons overseas and used for their own purposes overseas and that is why it is traditional in all of the countries in which you see modern copyright legislation to vest the ownership of that type of folklore within the Crown, or within the Republic, or within the State as the case may be.

It must be produced and created by the community in Barbados; it is not an artistic work that somebody himself might say is Barbadian folklore. It has to be some-

thing that is authentic and not an imitation of what is authentic and if it is an imitation of what is authentic without having its authenticity and it would be held by the Court to be folklore and it is knowingly used for sale, then the Crown has a criminal and civil sanction. I believe Honourable Members can be satisfied that these Sections are similar Sections of most of the legislations that we have examined ourselves.

Hon. H. B. St. JOHN: Just by way of a supplementary too. The key to this is that it has to go from generation to generation.
5.25 p.m.

The essence of folklore is the identification with a particular country of a particular traditional form of literary and artistic work, which passes from generation to generation and then, it would have to have been, as the Hon. former Attorney-General said, the Hon. Member for Christ Church West, it would have had to have been identified with a particular group in the community or groups in the community.

What the Hon. Member is talking about is not really talking about folklore in this sense, the Hon. Member is talking about folklore in a different sense. It is almost a sham sense in relation. This is the strict definition of folklore, not the popular definition of folklore.

Mr. P. M. GREAVES: Mr. Speaker, before you put the question, under Clause 48 of the Bill, page 37, there must be some good reason, but, is there any reason why the limitation period should be so wide, 5 years. Usually, they are not long and this one is exceedingly long. A five year period is for prosecutions. This is not for taking any Civil action. The Civil action would be even less than this, under the new Civil Law's limitation period. I am wondering if there is any good reason why, this is that long if it conforms to modern legislation that we were hearing about this afternoon, but, it seems unduly long.

Hon. H. B. St. JOHN: Well, Sir, I believe that there is no rule of limitation or no statute of limitation in respect of felony. Absolutely none. And, with respect to misdemeanours, it is usually a year. But in view of the fact that these things are, I am told, very difficult to seek out, and to get the necessary evidence, it was thought that you should sort of import the normal period of limitation which applies to a Civil suit which is six years. (ASIDE: It is amended now.) I am not sure whether it was amended to five or not. (ASIDE: Hon. H. deB. FORDE: Only fatal accidents, three years.) Fatal accidents which used to be a year has been extended to three years. Remember fatal accidents was a very difficult one. But, contracts, I am told, is six years in Barbados. But, the modern limitation period for general tendency fault is five years. So, what they have done is to place

this in a category between a felony and a misdemeanour and use the Civil limitation period as the period of time. That is the objurgatory. And, of course, the continuing offence is necessary.

Hon. L. R. TULL: Mr. Chairman, Sir, one of the difficulties — and I rise in respect of the detection of breach on the copyright — is the fact that there is a wide international implication. It takes a very long time, in some cases, before you can get wind of breach in the Copyright Act in respect of copying, piracy and it is also a very profitable venture and people make vast fortunes out of these things. It is for this reason that the question raised by the Hon. Member, as to the period of limitation for criminal prosecution being out of the ordinary, in relation to the Criminal Law period of limitation in Barbados, exist in this particular piece of legislation.

The question that Part III stand part was put and resolved in the affirmative without division.

The First and Second Schedules inclusive were called and passed.

On the motion of Hon. H. B. ST. JOHN, seconded by Hon. H. deB. FORDE, Mr. CHAIRMAN reported the passing of one Bill with amendments in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. H. B. ST. JOHN, seconded by Hon. H. deB. FORDE, the Bill was read a third time and passed.

Hon. H. B. ST. JOHN: Now, Sir, Item Number One, Sir.

Mr. SPEAKER: Item Number One.

PATENTS ACT, 1981

Item Number One was called — To move the Second Reading of a Bill to repeal the Patents Act and make new provision for the law relating to patents.

Hon. H. B. ST. JOHN: Mr. Speaker, Sir, much of what has been said, in relation to the other Bill, the general need for reform applies to this Bill and the particular features of the Bill are set out. 5.35 p.m.

Part I deals with the qualifications for patentability and the disqualifications, the applications for patents and the various claims that may be made in respect of inventions for which the application is made, the various examinations to which the applications are subject and the various procedures. It is to be noted, and what is

of significance, that under the existing Law in Barbados the Governor General is the person now who issues patents, but of course that is a legacy of very ancient law where the Governor General in constitutional theory under the prerogative did these things. That will no longer be so.

Parts II and III of the Bill deals with the contractual interest and set out the law and procedure respecting the grant of licences, including such ancillary matters as the payment of royalties and the non-contractual interests are dealt with in Part IV, as well as the remedies for infringement and other miscellaneous matters.

I think it is clear that this Bill would be a great improvement on the existing law. I also say, Sir, that in this respect in this Bill there will be examiners, and we expect that the people at the Barbados National Standards Institute will have a very important role to play.

I have spoken on the question of the intellectual property office, and I think hon. members will agree that before we create such an office it will be very necessary to have an examination as to its cost, its likely contribution to its cost, particularly at this period of time. We feel that one has to be very careful in increasing the burden on the establishment on the general taxpayers, and after all, these rights which this Bill seeks to enlarge and to enshrine in statute law are of great economic benefit for the holders of the patents.

The same exhaustive consultation which took place in respect of copyright took place in respect of this Bill. There is one point that I did not reply to which was a valid point raised by the Hon. Member for St. Michael South, and that is the question of the Legislature being the last person to see the Bill. This does cause us some concern, we had decided that we would have maximum consultation and all of the interested bodies were invited to the seminar. I think in the future, and we have it coming up now with the Companies Bill — I think that we should go towards the introduction of Green Papers in respect of Bills, but this calls for a new type of Civil Servant in the sense that we are expecting our Permanent Secretaries, or Deputy Permanent Secretaries now that we have created the grade, to be able succinctly to write the main features of the various sections and embody them in a document so we can have it printed and circulated for some period of time before the Bill comes after the consultation.

I think that is a procedure that should be undertaken with these highly technical matters, and I would like to see that done in respect of the Companies Bill, because that is coming very early in the new year, and it is an ideal Bill. All the professional associations have seen that now for about five years. We have circulated

it, they have gone through it clause by clause. I have not seen a complete draft myself, I understand it has just been presented by Mr. Justice Williams who is the consultant, but I really feel that that is an ideal case for a Green Paper or a White Paper. The problem with that is to suggest that the kind of work that has to be done now is very difficult, and we really do have limitations in a small country like ours with the manpower that is available to us.

Hon. Ministers have to come in here with very highly technical matters — and I am sure that this has been the experience of the other side — without a parliamentary brief, we have to make our own parliamentary briefs. That does not exist in other countries — the Ministers in the U.K. and other places are given a very massive parliamentary brief. We have all the files and you must go through all the files yourself to be able to do it. We do have a very elaborate commentary on each of the sections, and I am in a position to answer any questions in relation to this Bill, but I do not think that there will be any difficulty in the Opposition agreeing with the need for this Bill and the modernisation of our law. It is a modern and an up-to-date law and it would be similar to the one that is operating in all of the developing countries.

I beg to move that this Bill be now read a second time.

Hon. Dr. R. L. CHELTENHAM: I beg to second that.

Hon. H. deB. FORDE: Mr. Speaker, I do not intend to be long on this Bill, except to emphasise that as a developing and industrialising country Barbados needs to update its patent legislation. An inspection of the patent records over in the Registry would show that in the last 20 to 30 years some of the patents which have been registered have been registered by local persons here, but that the majority of patents are still patents registered by persons outside of Barbados for their various inventions.

As Barbadians and Caribbean peoples become more and more inventive, it will be expected that they would wish to protect their own inventions and their property in those inventions, because property in inventions is money and it has economic value. As we look more and more towards the transfer of technology, we must be extremely conscious of the terms on which we buy from overseas people's inventions, particularly in so far as licensing agreements are concerned, and there are features of this Bill which seek to protect licensee rights and non-contractual rights which are a tremendous advance on existing legislation and on the imperial type of legislation which governed us for some time past. Not only have events, independence for instance, overtaken the Patents

Act and the application of the U.K. type legislation to our country, but I believe that economic development in the territories has also overtaken this type of legislation.

Mr. Speaker, I would like to think that this particular Bill of the whole package of four is perhaps the most outstanding of very outstanding Bills, if I may put it this way, for the clarity of draftsmanship and the conciseness of language, and I think that it is one of the Bills that will go down in the history as an example of the extremely good work done by the Ministry of the Attorney General, and again I would like to congratulate the draftsman on this, Sir. I believe that this Bill when presented to WIPO will provide them with a model which they can use for other countries as well.

I do not want to say much more on the substance of the Bill, because they are all of the same ilk to some extent, dealing as they do with industrial property, except to remark that it is a good feature that this Bill gets away from dealing with the executive arm of Government giving the licensing powers to the executive arm of Government and giving it really to an administrative arm with a right of appeal to the courts. It is not often recognised that under existing legislation that if I am appealing even for an enlargement of time within which to renew a patent, that the appeal from the Registrar is to the Attorney General himself rather than to the court, and it is not often recognised that patents are still being sent to the Governor General, acting on behalf of Her Majesty the Crown, based on the old view that the grant of a patent was a prerogative act.
5.45 p.m.

We are now moving away from these concepts and recognising that the development of the State and the intervention of the State itself in commercial activity making it unrealistic to look to the person of the Crown either in her own personality or by virtue of her Governor-General to be doing these sorts of things. They call for more expertise, more constant counselling, more consistency of judgment and less privilege, and hence the development which you have seen in this legislation.

Mr. Speaker, I believe that the Patents Act can pay for itself in administration. We have raised the fees under the Patents Act recently but there are still reasonable as compared with fees overseas. Let me say here that I think that the lawyers who practise in this field have also consistently undercharged themselves when dealing with the registration and renewal of industrial and intellectual property in this island. The fees scarcely sometimes could pay the cost of secretaries and these are scale fees that have been set for some years and have not been revised, and I hope that with the new legislation which calls for additional expertise on the part of the practising profession that they will advert to the need to renew and enlarge the fees which are charged both on behalf of the

service given by the Government as well as by the service given by the practitioners.

I will say, Sir, that it is absolutely necessary that there should be a Director of Industrial Property in Barbados with a properly staffed office. Despite the fact that we have had patent legislation in Barbados since 1903, no body of examiners as called for under existing legislation has ever been appointed between 1903 and 1981, and that is not the way to see that legislation is properly administered. Indeed there are very few occasions in which in the Registry you have had a query about patents or indeed about inventions submitted to be patented or indeed about trademarks.

I remember perhaps the heyday of some queries about these matters occurred during the time of the present Chief Justice when he was Registrar, and also during the time that Mr. Lewis Hunte and Mr. Deighton Rawlins and I believe Mr. Garvey Husbands who was Assistant Registrar challenged some of the things, but normally you will find that these matters are accepted without any serious query, without any serious consideration being given to the legal position concerning them, and one needs a bit more expertise.

You cannot expect that you are going to go to a Registrar or Assistant Registrar who has not studied the subject consistently or that you are going to place this duty on a Senior Clerk or a Junior Clerk in the Registry. It calls for much more than this, and we must not leave this post in the Registration Office. We need a proper industrial property and intellectual property office run by a competent person with knowledge of the legislation and properly staffed, and I make bold to say that the office will pay for itself.

I have much pleasure therefore in seconding this Bill.

Mr. L. E. SANDIFORD: Again Mr. Speaker, I do not think that there is any objection on this side to the general principles of this piece of legislation. Perhaps more so than meets the eye it does have a bearing on the development of this country and to that extent we are going to give general support to this Bill.

Again one of my main concerns in respect of the Bill is in relation to the administration of the Bill, and the Minister in introducing it did make some reference to it and indicated that a study will be made concerning the establishment of an intellectual property office, I believe, with the assistance of the Canadian International Development Agency. But this particular Act by definition states that the Director is the Registrar, and I would like to raise a question as to whether the workload of that particular office is such that would permit even for

temporary purposes or until such period as a study may be made, I am wondering if the workload of that office is such as would permit the full and adequate administration of this new piece of legislation before us.

It has always been suggested to me that there is a tremendous amount of work which devolves upon the office of Registrar and that that workload compounded with inadequate accommodation leads to certain problems. I am really asking the Minister responsible whether in fact full justice in terms of the administration of this new and complex piece of legislation can be carried out under existing arrangements. If we are making a new break with this legislation, would it not be better to make a clean breast of it and start by setting up an office however meagre in resources so that we would not be putting this new wine into old bottles because it appears to me that this is exactly what we may be doing in respect of this piece of legislation. In any event that is the main point I wish to make. I am assuming that there will be a patent office where any one can go and examine the patents register there and may be some ideas may flow as a result of that particular examination.

Mr. SPEAKER: These are really details better suited for the Committee stage of the Bill.

Mr. L. E. SANDIFORD: Mr. Speaker, I have not dealt with any details. I am talking about the principle of administration and I take your point, but I would not be long on it anyhow. With all due respect I am not dealing with details. I would also like to advert to this question of patents being registered in Barbados. Perhaps largely or merely for the purpose of getting on the register but perhaps with no serious intention of any utilisation here and this would also apply to industrial designs and marks in the other piece of legislation, but we again have got to be very careful on this particular measure, and I would hope there would be some response from the Government side to some of the points that will be raised both here and in Committee. We have no objection to the general principles of the Bill.

Hon. L. R. TULL: Mr. Speaker, the Hon. Member for St. Michael South has raised a number of questions repeatedly during the debate in relation to the administration of these Bills when they become law. Now at the moment the Registration Office is responsible for patents. The Registrar of the Supreme Court is the man with the overall responsibility for the administration of patents. The difficulty is that with the effort by Government to modernise the law in relation to this Bill and the one that came before and the one that comes after, because it is in fact a package, they will need a new administrative structure if the patents, trademarks and copyrights are to be properly supervised. It is certainly the intention of

Government to look for the best administrative structure that is required in the circumstances.

5.55 p.m.

In respect of one of them, the Copyright Bill which we have just discussed, the normal practice is that the royalties, a percentage — I believe in Germany it is 15 per cent, in the United Kingdom it is 10 per cent — of the money that is collected on behalf of the various people entitled to it is kept to keep the administrative structure going and we envisage that a new structure will be required but that it will be partly financed, if not wholly in some cases, by the money that comes from private persons who are being protected out of this Intellectual Property legislation.

Now at the moment the Registrar is required to submit all applications under the Patents Law to a private examiner and these are usually very skilled and high-priced people and they do it on an *ad hoc* basis. It is within the contemplation of Government that this system of examining be revised and be brought as a part of the general administration of the Patents legislation.

Now the present legislation, Sir, proposes to do a number of things and I will express them seriatim, Sir. It proposes to deal with the whole question of qualifications for what is described as patentability, things that are capable of being described in the jargon as patents. We want to be able to have specific regulations in relation to that.

We also want, in this Bill, to look at the applications for patents generally and also to look at any consequential claims that may arise on any challenges to patents or indeed any disputes relating to patents that are registered with the new registration system.

We also want too, Sir, to have the various examinations which these patents are subject to, we want to have them done in a most centralised way rather than in the piecemeal way in which they are being done at the moment.

The Hon. Member for St. Michael South can then be assured and he has raised the question repeatedly that it is the intention of Government to seek for an administrative structure that would be able to harmonise all of these bits of legislation into a whole and to provide the type of service to the people for whom the legislation is intended to benefit, the very type of service that would make it far easier than exist in the antiquated archaic legislation that currently governs these things.

Much of the legislation is entirely new and it is based on the recommendations and I hate to repeat it, Sir, but the question keeps coming up — I thought these things had been adequately stated — it is based

on recommendations coming out of WIPO. I do not know if it has been said, Sir, but the Government set up an inter-Governmental Committee for a number of departments, the Attorney General's department, the Ministry of Culture, the Ministry of Trade, the IDC and those people, Sir. They set up an Inter-Governmental Committee to do a comprehensive study on what was required for the legislation as currently enhanced and they were advised by consultants who came down from Switzerland and worked with us here.

When I was in the Ministry of Culture I remember, Sir, the Ministry of Culture held the chairmanship of the Sub-Committee and I had very useful discussions at that time with the consultants who came down to do the work. The drafting and the bulk of the study has been done by a draftsman, Lewis Hunte in the Attorney General's Chambers who specialised in this particular area of the law, who has been to most of the conventions in recent years. He has done the work and we in the Attorney General's Chamber are quite happy with the result of what has been done and I will try finally to allay the fears for the Hon. Member for St. Michael South who perhaps find himself a little bit out of his depth in dealing with something as esoteric as these subjects but feels that nonetheless the Opposition voice must be heard so even though there is no significant contribution to be made he would still say something. I think he needs not worry because I believe we have done as well as you can in the circumstances.

Mr. L. E. SANDIFORD: On a point of elucidation if the Hon. Member will give way and he has given way. I do not know about being out of my depth. I mean, I hope it is not the Attorney General who is out of his depth because the former Attorney General seem to have upstaged him and have said all that he has just said already.

Mr. SPEAKER: That is no point of order.

Hon. L. R. TULL: Mr. Speaker, if I made in this winding up what I am saying is a Second Reading speech, the former Attorney General has done most of the work on this legislation before he left Office and I am not one of those people who go and try to steal the thunder from others so I give him his head because he did most of the work before he left but it now falls squarely within my area of competence. I have brought them in Parliament and I am willing for the Hon. Member for St. Michael South to explain any part of any of these Bills that he is ignorant of, Sir. Anything that he does not understand he has an admirable opportunity to find out now whether he is the one out of his depth or whether I am, Sir.

The question that this Bill be read a Second Time was put and resolved in the affirmative without division.

Hon. H. B. St. JOHN: I beg to move, Sir, that Your Honour do now leave the Chair and the House go into Committee on the Bill.

The question was put and resolved in the affirmative and Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE, in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 to 4 inclusive were called and passed.

Hon. H. B. St. JOHN: I beg to move, Sir, that the remainder of the Bill be dealt with in parts.

Hon. L. R. TULL: I beg to second that.

The question was put and resolved in the affirmative without division.

Part I was called.

6.05 p.m.

Mr. M. A. KING: Mr. Chairman, there is just one question I have to raise on Clause 19 of Part I and related Clauses dealing with the rights of the employer and employee, in relation to patents where the employee makes an invention in the course of employment. I want to refer specifically to 19(3). To make sense of what I am saying, I would just go back to the other sub-clauses of 19:—

“An employee who invents an invention in the circumstances described in subsection (2) of section 18 shall forthwith submit a written report concerning the invention to his employer.”

“When an employer receives a report concerning an invention of an employee under subsection (1), the employer shall, if he is interested in the invention reported upon, serve on the employee, within a period of one hundred and twenty days from the date”....“a written statement of the employer’s interest in the invention.”

Now up to there, the Law is alright. The employee, in the course of his employment does an invention, he serves notice on the employer and the employer, on receipt of that, gives a written statement of his interest in the invention.

Now, sub-Clause 3, the one about which I am concerned:—

“Upon the service upon his employee of a written statement of the employer’s interest in the invention, the right to a patent of invention for that invention vests in the employer.”

Now, this sub-Clause, Mr. Chairman, deals with the situation where the employee is the person who has done the actual invention. This is an invention which has been done not because the employee has been required by the employer to work on the invention, but, it is something which the employee does on his own time, so to speak, and using his own capability.

It seems to me, Mr. Chairman, that it is a little unfair to the employee to have a patent in situations of that sort, the right to the patent vesting in the employer. All Clause 4 does is to give the employee a right to remuneration for the patent. Now, I think the time has come when we have to think in terms of moving into the direction of giving the employee some right in his own intellectual ability because after all, the creation of the invention has been a result of the employee’s skill and inventiveness and it would seem to me that a more equitable way of dealing with the problem, if it is felt that the employer must share in that is that both of them should be entitled equally to share in the right of the invention. The right should vest in both.

In my view, once the employee has done it by his own skill and not in the course of his employment of the employer, in my view, the right should vest entirely in the employee. But, if it is felt that because the employee has actually been using information supplied by the employer under 18 (2). Information supplied by the employer:—

“or means that his employer put at the employee’s disposal”

If it feels that the employer, by virtue of that has some input into the actual invention, it would seem to me that the more equitable way would be for the right to be taken to vest in both employer and employee and that the mere payment of compensation is not a sufficient remuneration and recognition of the right and the skill of the employee in such circumstances.

I think as I said, we should move in the direction in this country where an employee has a right in the fruits of his labour and not necessarily just a right to compensation and thereafter, the employer gets the full benefit of the invention, to which he has not been a party, to which he has not participated in directing and which the employee was not engaged in for his benefit.

Thank you, Mr. Chairman.

Hon. H. B. St. JOHN: Mr. Chairman, the Honourable Member has raised a very interesting point, but there is in fact, a fourth situation in which the employee has full right to his own invention. There are three situations:—

- (1) Where an employee is engaged in research and during the course of that research, an invention takes place. That is the employer's right.
- (2) The second situation is where an employee not directly engaged in research, but uses data from his employment which helps him to create an invention which is patentable. Again, that is the employer's right.
- (3) But, the third situation now is divided into two. And, Section 18(2) deals with that. The employee is not required to engage in any creative activity. He invents by the use of information or means that his employer puts at his disposal.

Now, here, what the Act does is to give the employer the right of pre-emption. But, it is still the employee's patent. But, he must be paid for it. That is 18 (2).

- (4) The fourth situation is where an employee engages in an activity completely outside the scope of his work, like a hobby and he does not use the means of the employer. He is not engaged in that class of work at all, but, that is his own. (ASIDE) But, that is not 18(2). 18(2) gives the employer a right of pre-emption, but, the employee invents an invention by the use of information or means that his employer puts at his disposal. So, the employer must have a right of pre-emption there.

But, there is still another situation which is called complete third party activity... That belongs to the employee. Nobody can deal with that at all. That belongs to the employee. You see you have the research. You have the — that is normal Common Law for scope of employment, when you are engaged in research. The other one is where you are engaged and you use the means, but, it is not part of your duty. You are curious in the type of employee, but, you see means at your disposal there and he sort of finances it. He allows you to use his laboratory. It is not your work. Remember it is not your work, but he allows you to use the laboratory. (ASIDE: He made the invention.) But, I agree with you, he made the invention, but, in those circumstances, since you use information or means that his employer put at his disposal, the employer has the right of pre-emption.

But, the other category, where outside of the scope of your employment altogether, you do not use any means, you invent it on your own, that belongs to you and you alone. That is it.

The question that Part I stand part was put and resolved in the affirmative without division.
6.15 p.m.

Part II was called and passed.

Part III was called.

Hon. H. B. St. JOHN: I am sorry, Sir, I will have to ask that Part II be recommitted, there is a typographical error in Part II at page 48. In section 56, Sir, "Contracts that in effect . . ." The word "are" between "that" and "in" in line 1 has been left out. It should read: "Contracts that are in effect at the commencement of this Part . . ."

I beg to move that that be amended in that way.

Hon. L. R. TULL: I beg to second that.

The question was put and resolved in the affirmative without division.

Parts III and IV were called and passed.

Part V was called.

Hon. H. B. St. JOHN: I beg to move that section 95 be amended by the deletion of the word "provided" and the insertion of the word "provide". The Minister may by order provide; it has been printed as provided.

I beg to move that Part V as amended stand part.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

On the motion of Hon. H. B. St. JOHN, seconded by Hon. L. R. TULL, Mr. CHAIRMAN reported the passing of one Bill with amendments in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. H. B. St. JOHN, seconded by Hon. L. R. TULL, the Bill was read a third time and passed.

Mr. SPEAKER: Item No. 2.

THE INDUSTRIAL DESIGNS ACT, 1981

Hon. L. R. TULL: Mr. Speaker, Sir, in the Laws of Barbados there does not appear to be any legislation.... (ASIDE).... I am trying to satisfy the Hon. Member for St. Michael South, Sir. We have a very versatile team and we can switch things around.

No legislation in respect of industrial designs in Barbados although prior to May 31, 1979 there did exist in Barbados an Act entitled "The United Kingdom Designs and Standardisation of Marks Protection Act," but this Act gave protection to United Kingdom designers rather than to Barbados designers. This Act was in fact repealed in 1979. When one takes a look at the laws on the subject, it is abundantly clear that the intellectual property laws of Barbados are very archaic and do not conform to the realities of modern commercial and social life.

The whole purpose of this legislative package, Sir, the four Bills that we are discussing today, is to modernise the laws in respect of intellectual property, and we are therefore repealing all the outdated legislation and bringing into effect new laws to meet the needs of today.

In respect of the legislation of the industrial designs, Sir, defining the dividing line between what is known as industrial design and what is known as copyright is a very thin one, Sir, and even a lot of people who are acquainted with these things quite often experience a difficulty in distinguishing one from the other. However, this legislation, Sir, that we are proposing today, seeks to put on a rather modern and firm basis the need to regularise and update the archaic law that currently exists and to bring a regimen in the registration of trade marks that would make the carrying out of business in that sector of our community far more feasible than currently exists.

I beg to move that this Bill be now read a second time.

Hon. H. deB. FORDE: Mr. Speaker, I take much pleasure in seconding this Bill. I believe the Minister has adequately explained the legislation and I myself am personally happy to see that at long last we will be having on the Statute Book provisions dealing with industrial designs. In particular, Mr. Speaker, I believe that forms, lines, shapes and colours will become more important as we become equally inventive.
6.25 p.m.

Where there is a novelty and a newness in invention there will be provision for patenting particular articles, those persons in the industrial sector will need as well to protect their works of invention or works of art as the case may be.

I believe, Mr. Speaker, you will recall the case which came before our courts some years ago dealing with decramastic tiles and the contention then was that the development of the tile in Barbados was a copy and an infringement of a New Zealand industrial design, and at that stage the argument was whether or not you could protect a design outside the normal industrial designs legislation, since this particular design did not have the protection of the Act which was repealed in 1979. The matter was never fully adjudicated by the court because I

believe that the establishment was bought out, Tansitor Limited was bought over and resold to New Zealand owners, but at that time it showed up considerably a lack of adequate legislation in Barbados, and in this regard Barbados was very much behind other islands in the Caribbean like Dominica, Jamaica, Trinidad and Tobago, etc. and it has taken us 300 years odd to have adequate legislation dealing with industrial designs brought before this Parliament. So there is a lesson to be drawn from this.

We were basically an agricultural community. We were not industrialising and therefore our people had no need or any pressing need or did not recognise the need to give protection to their own designs. We have seen, Mr. Speaker, that those people in the garment industries for instance who have come up with original designs in relation to garments have suffered at the hands of their competitors both regionally and extra-regionally because they lacked the necessary protection. As we become more and more a manufacturing and industrialised country, it will become increasingly important that this legislation should be kept under constant review, and I was indeed very heartened by the remarks of the Hon. Attorney General in replying to the Hon. Member for St. Michael South when he pointed out the usage to be made of the industrial property office and the intellectual property office and the intention which the Government has to update the administrative arrangements for the functioning of legislation such as this. I would expect that every industry and industrialist in Barbados tonight should be happy about this type of legislation.

The Ministry of Education certainly I recall under the immediate past Minister was deliberately giving national development scholarships in the field of industrial designing in order to encourage our artists to look at this field as an area of endeavour which would strengthen the hands of our industrial producers here. I recall in particular a scholarship given to one young lady to study in Canada and her specialty is in the designing of garment patterns. That is one field. It can be in the field of furniture, it can be in the field of garments, it can be in the field of building material. Whatever field it is, I think it is necessary for us to look at the total development effort and see what protection we can give to them. When I therefore hear some few people say that the Government is not doing anything to support small businessmen or the business sector, I am amazed, because this is another area of great importance for them and having a lot of significance for their own protection, an area to which some of them probably do not even advert in these days.

Although I would have liked this particular Bill of the package of four to have probably gone to Committee in order to introduce into it some of the admirable features contained in the patents legislation, for instance

for statutory rights and local rights etc., which I think we could have extended in the field of industrial designs, because we are new and we are recent and we probably need to take a lot more of these protections until our industrial designers have got on as strong a footing as some of their competitors. Yet I believe what we have is an improvement, and I would hope that over the years when the ministries concerned have got a bit more time and as they work on the other Bills that must come down, they would look to amending this legislation to probably include some of those particular areas which are so adequately and sensibly set out in the Patents Act. So I have much pleasure in seconding this Bill.

The question that the Bill be now read a second time was put and resolved in the affirmative without division.

On motion of Hon. L. R. TULL, seconded by Hon. L. S. CRAIG, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

Clauses 1 to 6 inclusive were called and passed.

Clause 7 was called.

Hon. L. R. TULL: Mr. Chairman, I beg to move that Clause 7 stand part.

Hon. H. deB. FORDE: I beg to second that.

Mr. M. A. KING: Mr. Chairman, in Clause 7 this Clause deals with provisions similar to the ones which were in the last measure we dealt with, but I notice that in form it is different and it does not give to the employer the same intermediate rights as exist in the previous legislation.
6.35 p.m.

In the previous legislation provision had been made for the patent to invest in the employee subject to certain other procedures which would permit the patent to vest in the employer. But it seems that those intermediate positions are left out of the draft in Clause 6 in the Industrial Design Bill and I am wondering if there is any specific reason why the form of providing for the vesting of rights in the employer in this situation should be, in fact, different from the previous legislation.

The sum total of this particular measure is, if for instance the employer has no interest in the industrial design, it would appear that the employee himself has no right to the protection of the Act in as much as under this draft as it stands, its design does not at anytime vest in the employee.

Clause 7 is what I am talking about. Let us refer the previous Bill. Mr. Chairman, may I refer to the previous Bill just to illustrate the point which I am making? The Sub-Clause 3 of Clause 19 of the previous Bill, Sub-Clauses 2 and 3 are not included in the provisions of the Industrial Design Bill.

Sub-Clause 1 would require the employee to report the patent to the employer. Sub-Clause 2 would provide for the employer to express an interest in it and to do a written statement of his interest in the invention and Sub-Clause 3 would require the patent to vest in the employer.

Now all I am saying is that these three intermediate steps are missing from the Bill on industrial designs. Is my point clear? All those intermediate steps are not there so I am asking if there was any reason why there should not be the same opportunity of the industrial design to vest in the employer as exist in the other legislation.

Hon. L. R. TULL: Mr. Chairman, Sir, the point made by the Hon. Member has validity in so far as there is a difference in drafting but the end result is the same. In the Trademarks Bill, the one we are apparently discussing, the same protection is afforded, the Industrial Design, Sir, that one, the same protection is afforded to employer employee as provided under the Bill that we completed a few moments ago, Sir but the Hon. Member says that it is not true, Sir. I would like him to bring home the difference because the result is the same, there is just a difference in the drafting.

The question that Clause 7 stand part was put and resolved in the affirmative without division.

Clauses 8 to 11 inclusive were called and passed.

Clause 12 was called.

Hon. L. R. TULL: I am asking leave of the House to deal with a number of Clauses together. In this case Clauses 12 to 18 which deal with applications for registration.

Hon. H. deB. FORDE: I beg to second that.

I am reading Standing Order 49(1).

"The Clerk shall call the number of each clause in succession provided that, with the agreement of the Committee, several clauses may be called together or, where the Bill is divided into parts, the Bill may be called in parts, without prejudice to the right of the Committee to discuss or amend any Clause."

That is the relevant Standing Order, Sir.

Mr. CHAIRMAN: Any objection?

Mr. L. E. SANDIFORD: No objection.

The question that Clauses 12 to 18 inclusive stand part was put and resolved in the affirmative without division.

Clauses 19 to 26 inclusive dealing with Registration were called and passed.

Clauses 27 to 36 inclusive dealing with Proprietary Activities were called and passed.

Clauses 37 to 42 inclusive dealing with Protective Measures were called and passed.

Clauses 43 to 45 inclusive were called and passed.

Clauses 46 to 50 inclusive dealing with Civil Remedies were called and passed.

Clause 51 was called and passed.
6.45 p.m.

On the motion of Hon. L. R. TULL, seconded by Hon. H. deB. FORDE, Mr. CHAIRMAN reported the passing of one Bill with amendments in Committee and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. L. R. TULL, seconded by Hon. H. deB. FORDE, the Bill was read a third time and passed.

Mr. SPEAKER: Item Number Four.

TRADE MARKS ACT, 1981

Item Number 4 was called – To move the Second Reading of a Bill to revise and reform the law governing signs used as trade marks, service marks or collective marks in connection with the marketing of goods or services.

Hon. L. R. TULL: Mr. Speaker, Sir, the existing Trade Marks Act was passed in 1949, Sir, but it came into operation on May 25, 1950. It is, therefore, a comparatively recent statute, as far as legislation in this area goes, but it has also fallen out of date because of the great deal of developments in industry since the time of that legislation, Sir.

For a long time, on This Side, we have been making fairly strident calls for this type of legislation and I well remember when I was a Member of the Other Place, Sir, repeatedly making calls for legislation in this area and was

greeted with the type of cynicism from Hon. Members of the Other Side, at that time, that was hardly warranted in the circumstances.

Again, as with the other bits of legislation, the Registrar of the Supreme Court has general responsibility for administration of this Act and there is a provision for registration of Marks under Part A or Part B of a Register held in the Supreme Court Registry with an automatic registration for United Kingdom Marks.

What we are proposing to do in this Bill, Sir, is to deal with the whole concept of Registration under Part A and under Part B, we are dealing with the registration itself. And, we are making provision for one single form of registration of trade marks. The philosophy of the Bill is outlined in Clause 3 and two new Marks, one of which is known as a Collective Mark and the other that is known as a Service Mark have been introduced in this legislation and is a new thing, as far as, the Law of Barbados is concerned. These two types of Marks are also explained in Clause 4 of the Bill.

Clause 5 contains the rights of the owners of the Marks are unregistrable for various reasons and these are spelled out in detail, Sir. The procedure relating to the application, registration and renewal are to be found in Clauses 10 to 27, while Clauses 28 and 29 relate to the transfer of rights in respect of Marks. Clauses 30 to 35, Sir, deal with contractual interests and Clauses 38 to 47 deal with the remedies that are consequential under any breach of the provisions that come before it.

The subject of unfair competition has never been adequately or at all dealt with, by the Law in Barbados, and it is, in fact, a very difficult and complex matter, but we have sought in Clauses 28 to 51 of this Bill to meet the needs in that regard.

I beg to move, Sir, that this Bill be now read a Second Time.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

On the motion of Hon. L. R. TULL, seconded by Hon. H. deB. FORDE, Mr. SPEAKER left the Chair and the House went into Committee on the Bill, Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: The House is in Committee.

Clauses 1 to 4 inclusive were called and passed.

Clause 5 was called.

Hon. L. R. TULL: Mr. Chairman, I seek the leave of the Honourable House, Sir, to deal with the rest of the Bill by groups of Clauses that are kindred and in this regard, I beg to move that Clauses 5 to 9 dealing with the protection of marks stand part.

Before I do that, Sir, I want to advert to a typographical error at Clause 6. In the marginal note appears the word, "expected" and I would ask that that be amended to "excepted".

I beg to move that Clauses 5 to 9 with the amendment stand part, Sir.

Mr. CHAIRMAN: I take it that the Opposition is in agreement with this. (ASIDE: No objection.)

The question that Clauses 5 to 9, as amended, stand part was put and resolved in the affirmative without division.

Hon. L. R. TULL: Mr. Chairman, Sir, I beg to move that the Clauses applying to application for registration, I make reference from Clauses 10 to 15.

I beg to move, Sir, that Clauses 10 to 15 stand part.

Hon. H. deB. FORDE: I beg to second that.

The question that Clauses 10 to 15 inclusive stand part was put and resolved in the affirmative without division.

Hon. L. R. TULL: Mr. Chairman, Sir, Clauses 16 to 18 dealing with publication of application, I beg to move that those Clauses stand part, Sir.

Hon. H. deB. FORDE: I beg to second that.

The question that Clauses 16 to 18 inclusive stand part was put and resolved in the affirmative without division.

6.55 p.m.

Clauses 19 to 27 dealing with registration were called and passed.

Clauses 28 and 29 dealing with Proprietary Activities were called and passed.

Clauses 30 to 36, inclusive, dealing with licence contracts were called and passed.

Clause 37 was called and passed.

Clause 38 was called and passed.

Clause 39 was called.

Hon. L. R. TULL: In respect of clause 39, Sir, which deals with the licensee's remedies, I beg to move that clause 39(5) be deleted. That is the clause at the top of page 35, Sir, and the substitution therefor reads as follows:

"When a licensee institutes legal proceedings in his own name under this section, he must prove to the court that the registered owner of the mark to which the proceedings relate failed within the time limited therefor to institute legal proceedings."

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division.

Mr. CHAIRMAN: It is now 7 o'clock and I must report progress to His Honour the Speaker.

Hon. L. R. TULL: Mr. Chairman, with your indulgence, Sir, in respect of the amendment I have just read, I would like to further amend it by including "by subsection (1)"; "limited therefor by subsection (1)." I need to have that included, Sir.

Hon. H. deB. FORDE: I beg to second that.

The question was put and resolved in the affirmative without division. Mr. CHAIRMAN reported progress and Mr. SPEAKER resumed the Chair and reported accordingly.

Mr. SPEAKER: What I would like to enquire from the Hon. Attorney General, could this Bill be completed by 7.10 p.m.

Hon. L. R. TULL: Yes, it can be, Sir.

Mr. SPEAKER left the Chair and the House resumed Committee on the Bill Mr. J. G. ODLE in the Chair.

Mr. CHAIRMAN: There is a further amendment. The House is in Committee.

Hon. L. R. TULL: ".....to which the proceedings relate failed within the time limited therefor by subsection (1) to institute legal proceedings."

That is the amendment, Sir.

The question that Clause 39 as amended stand part was put and resolved in the affirmative without division.

Clauses 40 to 46, which are kindred, were called and passed.

Clause 47 which deals with appeals was called and passed.

Clause 48 to 51 were called and passed.

Clause 52 was called and passed.

Clauses 53 to 58 dealing with administration were called and passed.

Clause 59 was called and passed.

On the motion of Hon. L. R. TULL, seconded by Hon. H. deB. FORDE, Mr. CHAIRMAN reported the passing of one Bill with amendments in Committee, and Mr. SPEAKER resumed the Chair and reported accordingly.

On the separate motions of Hon. L. R. TULL, seconded by Hon. H. deB. FORDE, the Bill was read a third time and passed.
7.05 p.m.

THE ADJOURNMENT

Hon. L. S. CRAIG: Mr. Speaker, that is the end of Government Business for today.

I beg to move that this House do now stand adjourned until Tuesday, 15th December, 1981, at 12 o'clock noon.

Hon. H. deB. FORDE: I beg to second that.

Mr. L. E. SANDIFORD: Mr. Speaker, I would like to ask the Leader of the House whether he would not consider meeting next week, speaking on this particular motion, so that we may conclude discussion of the debate on the Throne Speech which is outstanding, and if we could get that out of the way next week and by then maybe you could take Government Business the following week. I am certain that a procedure through the suspension of Standing Orders could be found, so I am

really asking the Leader of the House first of all whether he would agree to meeting next week. I do not wish to move an amendment because I think we can settle this now.

Hon. L. S. CRAIG: Mr. Speaker, the Hon. Member would know that I have no intention of acceding to his request especially when he says that Private Members' Business is outstanding. It is not fair to say it is outstanding. It has been treated in the manner in which it should be treated every Tuesday since we came here. There is only one Tuesday when I think he did not have an opportunity to speak on this and there is nothing about it that is important, and therefore I could not accede to his request. It is neither outstanding nor is it important, therefore you have no case to put and on this occasion I could not accede to his request.

Dr. R. C. HAYNES: Mr. Speaker, speaking on the motion for the adjournment of the House, we on this side feel very strongly that the matter which forms the subject of Private Members' Business which is currently before this Parliament is of paramount importance, and whereas we are aware that the Government would seek every opportunity to avoid further debate on this matter, we feel that in the interest of the nation that that particular Resolution should be dealt with as expeditiously as possible, and I would like to join my distinguished colleague, the Deputy Leader of the Opposition in asking the Leader of the House to give due consideration to our request that the House do meet one week from today in order to deal with the particular Resolution. We feel strongly about it, Mr. Speaker, and I regret that the Leader of the House has dismissed it as a matter of no great importance.

Hon. L. S. CRAIG: I still repeat there is nothing important about the matter.

The question that the House do now adjourn until Tuesday, December 15, 1981, at 12 o'clock noon, was put and resolved in the affirmative without division, and Mr. SPEAKER adjourned the House accordingly.
7.10 p.m.